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Floor Debate  
March 29, 2017

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PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen and welcome to the George W. Norris Legislative Chamber for the fifty-fifth day of the One Hundred Fifth Legislature, First Session. Our chaplain for today is Senator Blood. Please rise.

SENATOR BLOOD: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Senator Blood. I call to order the fifty-fifth day of the One Hundred Fifth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

CLERK: I have a quorum present, Mr. President.

PRESIDENT FOLEY: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT FOLEY: Thank you, sir. Are there any messages, reports, or announcements?

CLERK: I just have one item, Mr. President. The Health Committee will have an Executive Session at 9:15 under the north balcony. That's all that I have.

PRESIDENT FOLEY: Thank you, sir. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR77 and LR78. Senator McCollister for what purpose do you rise? [LR77 LR78]

SENATOR MCCOLLISTER: A point of personal privilege, please.

PRESIDENT FOLEY: Please proceed.

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SENATOR McCOLLISTER: Thank you, Mr. Lieutenant Governor. Colleagues, you will recall that last week I made a statement that Director Phillips had not responded to a letter that five senators sent to her on December 30. However, we did receive a letter, so I would like to correct the record. We did receive a letter from Director Phillips and I will send her a note of apology, but I just wanted to clear the record. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you very much, Senator McCollister. We'll now proceed to the agenda. General File, 2017 committee priority bills. Mr. Clerk.

CLERK: Mr. President, LB289 is a bill offered by Senator Pansing Brooks. (Read title.) The bill was discussed yesterday, Mr. President. Senator Pansing Brooks presented her bill. Senator Ebke offered AM599 as an amendment to the bill. And subsequent to that action, Senator Morfeld offered AM786 as an amendment to the Ebke amendment. Those two amendments are pending. (Legislative Journal page 832.) [LB289]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senators Pansing Brooks, Ebke, and Morfeld, if you could each take a minute each to refresh us on where we are on the bill. This will not count as a speaking opportunity. Then we'll move to the speaking queue. Senator Pansing Brooks. [LB289]

SENATOR PANSING BROOKS: Thank you, Mr. President. I just want to remind people that LB289 increases penalties on the abhorrent practice of human trafficking. I want to thank people for the discussion yesterday. That shows the health of our Legislature. That dialogue that went back and forth and, you know, we're trying to make laws better and stronger. So I appreciate Senator Chambers, I appreciate Senator Schumacher, and Senator Harr. You know, it's important we work together. Whatever comes on the floor isn't exactly perfect in every instance, so I do appreciate that. I want to tout our Unicameral for that ability to work together and to work on important issues like this issue. I want to clarify a few misconceptions from yesterday. We are not talking about mandatory minimums. This is not...this is something...mandatory minimums are in there and while I appreciate the discussion and I'm willing and want to help have mandatory minimum reform, that's not what this bill is about. It's also not the place to solve prison overcrowding on the backs of child victims. It's just not. We are talking about human trafficking and not prostitution. [LB289]

PRESIDENT FOLEY: Time, Senator. [LB289]

SENATOR PANSING BROOKS: And again...oh, okay. [LB289]

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PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Ebke, would you like a minute? [LB289]

SENATOR EBKE: Thank you, Mr. President. I would just speak to AM599. This is, although it has my name on it, it is the de facto Judiciary Committee amendment. We have rolled LB178, LB188, LB191 and LB394 into LB289. I would encourage the body's support for AM599. Let us move on to the Judiciary Committee...to finalizing this portion of the Judiciary Committee priority bill and then we will work to address the many questions and concerns that came up yesterday as we move to Select File after we have a final version to work with. [LB289 LB178 LB188 LB191 LB394]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Morfeld, would you like a minute? [LB289]

SENATOR MORFELD: Yes. Thank you, Mr. President. Just to remind everybody, AM786 is an amendment to Senator Ebke's AM499, (sic-599) which is the committee amendment as she discussed. AM786 is actually an amendment to my original LB394, which is in AM599 which deals with domestic violence protection orders and possession of guns. AM786 was worked out with the various different parties, including the NRA, who is in support of this amendment as well, to ensure that there is due process rights for gun owners when that domestic violence protection order is issued. This is in line with our current federal law, and again, this has been agreed upon and supported by all the parties, including the gun rights advocates. Thank you, Mr. President. [LB289 LB394]

PRESIDENT FOLEY: Thank you, Senator Morfeld. We'll now proceed to debate on LB289 and the related amendments. Senator Brasch, you're recognized. [LB289]

SENATOR BRASCH: Good morning, Mr. Lieutenant Governor. Good morning, Nebraskans, colleagues. I stand in support of LB289. I do want to thank Senator Pansing Brooks for introducing this bill and for also incorporating LB188 into this bill. This bill is very important that we make a very clear message in Nebraska--my phone was making a sound but--that this message is that human trafficking, that rape, that protection of individuals is not tolerated in our state, that we do protect them, that we do not want to have Nebraska a place that just turns a blind eye to victims. And I believe that her bill, LB289, the amendments that have been put into it, is a good protection bill. I believe we're moving in the right direction. I had a meeting yesterday afternoon and was not here for the extended debate, but I did want to be on record for supporting LB289 and the amendments. I yield my time to Senator Pansing Brooks if she would so please. I'd yield my time. [LB289 LB188]

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SENATOR PANSING BROOKS: Okay. Sure. Thank you. [LB289]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Pansing Brooks, 3:15. [LB289]

SENATOR PANSING BROOKS: Thank you very much. I want to continue with my discussion to clarify a few misconceptions. And again, thank the people for the great discussion yesterday. Again, this is not where we're going to argue the whole idea of mandatory minimums. I'm with the reform on that. So these are penalties that are clearly defined in statute. It's also not the place to solve the prison overcrowding problem on the backs of child victims and vulnerable people. Human trafficking is not prostitution. Yesterday, I had somebody say, hey, it's the oldest profession in the world. That person clearly does not get what we're talking about. This is not about consensual sex between two adults. This is about nonconsensual sex. It's about force, threat, fraud, coercion. It is the selling of human beings...selling human beings for money or other valuable proceeds for sex. This creates penalties for trafficking and purchasing offenses that are proportionate to the crime. If we don't affect the market, if we don't say, no longer we're going to allow this in Nebraska, we're going to do nothing to the people that are vulnerable. I'm going to read you a couple letters because people think this is something that we're just making up. It's not. I want you to remember three problems, the three numbers, my friends. The first number is 13. Thirteen is the first...the average age that a child is first commercially trafficked, or that anyone is first commercially trafficked. Thirteen is the average age. That means if it's the average, it means that people are being trafficked at an even younger age. Think of that. So 13. Remember that. Nine hundred. Nine hundred are the number of times that people are sold... [LB289]

PRESIDENT FOLEY: One minute. [LB289]

SENATOR PANSING BROOKS: ...for sex in Nebraska per month. And often they're sold multiple times. That's 900 people sold for sex in our state in a month. The third number I want you to remember is 50 percent and 5 percent. Well, that's sort of two numbers. Anyway, 50 percent because even though 5 percent of our citizens are African-American, 50 percent of them are sold in the traffic trade and an even greater number when you add in Hispanic and Asian people. So the nonwhites, 60 percent of the people sold in the trade are nonwhites. So we're talking about vulnerable people, we're talking about minorities, we're talking about kids in foster care. That's what we're talking about. We're talking about nonconsensual sex and I will read to you both a letter next time on the mike about a child and an adult who have trafficked. [LB289]

PRESIDENT FOLEY: Time, Senator. [LB289]

SENATOR PANSING BROOKS: Thank you, Mr. President. [LB289]

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PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Harr, you're recognized. [LB289]

SENATOR HARR: Thank you, Mr. President, members of the body. Thank you, Senator Pansing Brooks, for bringing this legislation. Make no mistake, sex trafficking is bad. We need to punish those people. I have absolutely no problem with that. But to say we're not increasing the mandatory minimum is a misnomer at best, misleading at worst, an outright lie, I should say, at worst. We are taking penalties that right now are punishable by 1 year in prison to 50 years in prison and we're saying the minimum you can give is 5 years. The maximum is still 50. Yeah, it may not be mandatory minimum in that you can still receive good time, but we are upping the penalties here and we're saying the minimum amount of time these individuals can spend or must spend in prison is raised. Again, maybe not a bad thing. But ask yourself this, we have just come off of two years of fighting to say we need to readjust our sentences. And now Senator Pansing Brooks, who claims to have been one of the leaders in this, has switched teams, has switched sides and says, it's okay when it's my crimes that I don't like. What happens when it's a crime I don't like and I think should have a higher penalty? Should I bring a bill? I don't know. I want to know what the reasoning...I have heard over and over again that these are heinous crimes, and the answer is they are. But we already have statutes. We already have penalties in there. You want to increase some of them, fine. But trafficking a minor which goes from zero to 20 to 20 to life, that's a huge increase. You better be coming at me with a policy reason of why to do it other than they're just heinous crimes. You better say, this is my North Star. This is why I think it's okay. Because guess what, folks, if you're a victim of a crime, every crime is heinous. You get your car stolen, you've lost your sense of privacy. You've lost your sense of trust in society. It's a heinous crime. On the level of sex trafficking, maybe not. But it's a heinous crime. Tell me how do you differentiate these crimes? And how do you justify going from zero to 20 to 20 to life other than to use the word heinous? Give me something of substance so that when next year...this bill was brought by the Attorney General. Next year when he comes with the next bill that says, hey, I want to ratchet it up again, I'm going to pick on something else that is politically sexy at the time. And we continue to ratchet and ratchet and ratchet until we're back to where we were two years ago. Why don't we trust our judges? I hear mandatory minimum argument that Senator Linehan has brought is, hey, we got to trust our judges. Well, we trust them in certain circumstances, but now, now we don't trust them. Nope. We have to change the penalties. Just tell me how you come at it. And last night I received numerous e-mails from victims of sex trafficking and they were horrible what happened to them. [LB289]

PRESIDENT FOLEY: One minute. [LB289]

SENATOR HARR: Thank you. But you know what I didn't hear in any of them? They prosecuted the john. They prosecuted that person. Let's put the focus where it needs to be, on prosecution. Put the pressure on the judges to give the right sentences before we go and do this.

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This is window dressing, folks. This is making us feel good that we did something when, in fact, not one additional person will be prosecuted if we pass this law. Well, maybe for solicitation of a trafficked adult, so I will concede that and I'm okay with that. But just upping penalties, what's that do? I haven't heard one person say, hey, I was trafficked. The guy got out or the woman got out and then I was a victim a second time, or there was a second offense of an individual. That's what I want to hear. Then I'll say, you know what? This doesn't work. We do need to ratchet it up a little bit more. [LB289]

PRESIDENT FOLEY: Time, Senator. [LB289]

SENATOR HARR: Thank you. [LB289]

PRESIDENT FOLEY: Thank you, Senator Harr. (Doctor of the day introduced.) Senator Pansing Brooks. [LB289]

SENATOR PANSING BROOKS: Thank you. Well, that previous discussion makes me sick to my stomach to compare a car theft to the violent rape and abuse of children and women and minorities is wrong. And I will give Senator Harr some testimony. If he had been at the hearing, he would have heard this as well. Here is one letter from Rachel Pointer who testified at our hearing. I wanted to see...excuse me, having spent over 17 years working with children and families involved with the juvenile justice system and CPS, I have witnessed the devastating effects that abuse, violence, and exploitation can have on individuals. In my professional experience, I've interfaced with individuals who were trafficked and exploited and walked alongside the families and individuals in their journeys towards healing. And as much as I believe their stories need to be told and known, that they need to be heard, their stories are not mine to tell. So instead, I will tell you my story. When I was six years old--Senator Harr, I hope you're listening, please--when I was six years old, the boyfriend of my neighbor sold me to another person to use for sex, in the house next door to where I lived with my family in Omaha, Nebraska. I was sold to others by others, and in other places across the city for ten years. For years I did not know what was really happening to me. I had no words to describe rape, beatings, threats, violence, drugs, or anything else that was used to keep me under control and profitable. Over time, it became harder and harder to keep my emotions in check, to not explode with anger and pain, to not let anyone see the shell of a human being I had become because of the things that were done to me. I intentionally tried to end my life on at least three very distinct occasions because I didn't want to live anymore. I cut and burned myself for years because I had experienced so much trauma and was so numb that I was desperate to feel anything at all. I used drugs, work, alcohol, and staying extremely busy to keep myself from thinking because I was terrified to be trapped inside my own head with my own memories. I was able to get away when I was 16. I was at risk. I was not compliant anymore and I just wasn't as profitable as I was at six

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years old. I have spent many years trying to get my life back. I have come a very long way on this journey of healing, even in the last few years from a very angry, terrified, desperate little girl to a woman who advocates for justice for those who are unable to advocate for themselves, who is unafraid to sit before you today and give voice to the devastation in our community that has been silenced for too long. No one who purchased me and no one who sold me faced charges of any kind for what they did to me. If they had, they would have spent little to no time behind bars. All of the time and humanity that they stole from me. An individual who pays money for an opportunity to rape or abuse a child needs to be held accountable. The individual who tortures, forces, threatens, abuses, drugs, and otherwise coerces a child for the purpose of making a profit off their rape needs to be held accountable. We owe it to the little child who is being exploited right now in our great state to raise the bar. The child whose perpetrator will be caught and charged. We need them to know they deserve safety. We need the perpetrators, the buyers and sellers to understand that we will no longer allow them to live without meaningful consequences to their actions. [LB289]

PRESIDENT FOLEY: One minute. [LB289]

SENATOR PANSING BROOKS: LB289 increases legal penalties for traffickers and solicitors to hold them accountable and in holding perpetrators accountable, we demonstrate that we believe the victims of these terrible crimes deserve justice. I am asking you to use your power and influence to help us pass this important legislation. Thank you. Rachel Pointer. That's one letter. I have another that I'll read the next time on the mike from an adult who was trafficked. And then you tell me if we don't need to protect people in our state. You tell me if women and children don't need protection. And I'd like to hear from some of the women to tell us whether they think these are acts of violence and should be punished. It's easy for some of the men to stand and say, this is no problem. You know, I have no problem having sex with a stranger. I'll tell you what, I do. [LB289]

PRESIDENT FOLEY: Time, Senator. [LB289]

SENATOR PANSING BROOKS: Thank you. [LB289]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Craighead, you're recognized. [LB289]

SENATOR CRAIGHEAD: Thank you, Mr. President, and good morning, colleagues. I stand in support of LB289, AM599 and AM786. There needs to be penalties for trafficking. As we've heard in the last couple days, traffickers are not penalized at all. And this needs to be enforced. We do need help for victims. As you just heard from Senator Pansing Brooks, it is a problem. It's

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a huge problem and I'm sure she'll tell you more. I didn't know a lot about this. I mean, I knew the word trafficking, but last summer I met with several different groups, one of which was the Omaha Women's Fund and I said, tell me more about this. And they said, well, here's a story. They said, we can't believe how much this goes on in town. I said, well, where? They said, well, College World Series. It's all around there. It's all around the downtown hotels. And the example that they gave me is that there was a pimp or john or whatever you want to call him holding the baby of one of the women who had been trafficked and she was going back in again to have sex. And he was sitting there holding this woman's baby who had been conceived because of another rape. I think this is wrong. A lot of the girls I also found out that are involved in trafficking come out of the foster care system. They're lost. They don't know where to go. So that's another issue that we need to work on. I also found out that there are a number of Web sites that are used. And I have the list somewhere and it's like I've never gotten into them because it disgusts me so badly. However, the bottom line of this is that this is an issue and this is mainly a woman's issue and a young girl's issue and I hope every woman in this Chamber stands up and talks about this. And I will yield the rest of my time to Senator Pansing Brooks for another letter. [LB289]

PRESIDENT FOLEY: Thank you, Senator Craighead. Senator Pansing Brooks, 3:00. [LB289]

SENATOR PANSING BROOKS: Thank you, Mr. President. Somebody just said to me, am I willing to work? And clearly I am willing to work on this. If we can get around the mandatory minimums, that's fine, but the penalties need to be increased. There is no question. Having a misdemeanor, a slap on the hand for somebody who is purchasing children and purchasing victims that they know are victims, if they know it. If they don't know it, then they have a defense, don't they? But if they're purchasing...I've already worked with Senator Chambers and removed the word consecutive. So it isn't added on to another penalty, and that's coming up, but we will add that. But, you know, we had this exact same discussion last year on granting immunity to the victims. We had the exact same issue with Senator Schumacher and Senator Harr. And I just want to say, I'm going to fight for these women and children and vulnerable people. The stories that we're hearing are heartrending. And I heard from victims last night in-between when we adjourned...and they're listening to this. And I had people crying about the fact that people are not understanding that the victims are not being understood. They're not being granted any kind of acknowledgment that something is happening to them. And we're just letting the people do it at no problem. The reason that they're not arresting people right now is because it's such a low crime. And guess who gets the women out of jail or the men or the children? Guess who? The traffickers. Why would any person tell on a trafficker if there's no penalty to the trafficker, there's no penalty to the solicitor, why would a person open their mouths? And those are the stories that we heard in Judiciary at our hearing, if you had been there to listen. [LB289]

PRESIDENT FOLEY: One minute. [LB289]



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SENATOR PANSING BROOKS: So again, I am speaking for voices that are hurt across this state. Senator Bloomfield last year said we need to have a law to put up in the bathrooms at the truck stops an 800 number and some sort of phone access to allow these people to call and get help. This is a serious problem. I also want to say that this is not a fad. It is an awakening, my friends. This has been out of sight, sub rosa. This is a nuance of consensual versus nonconsensual sex. Just because we are using the word sex doesn't mean that we're talking about the same thing when we're talking about prostitutes versus trafficking. To say that we are oversentencing on vulnerable people means that we're being tone deaf. We don't understand what the problem really is. [LB289]

PRESIDENT FOLEY: Time, Senator. [LB289]

SENATOR PANSING BROOKS: Thank you. [LB289]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Hilgers, you're recognized. [LB289]

SENATOR HILGERS: Thank you, Mr. President, good morning, colleagues. I rise in support of LB289 and I want to thank, again, Senator Pansing Brooks for bringing it. It's a very important issue. I think Senator Pansing Brooks has eloquently given voice to many who are voiceless and told the stories of people who have suffered...had been victims of really what is a horrendous crime. Yesterday, I listened to very thoughtful remarks and criticism of some aspects of the language of this bill. I think there is a lot of what was said yesterday that has merit and I think as I said yesterday that it is important for us as legislators to be able to be precise and thoughtful and give potential defendants due process and respect their ability to have notice of what is or is not, could be criminalized and what might end up in jail time. I think those are significant concerns, but I also think they are concerns that can be addressed, that will be addressed. I appreciate Senator Pansing Brooks's comments about her willingness to work with this body both on the floor this morning, as well as between General and Select. And so I wholeheartedly support LB289. I look forward to working with Senator Pansing Brooks, Senator Schumacher, Senator Chambers, and others working through some of the concerns on the language to make sure it accomplishes the goals that Senator Pansing Brooks has, as well as ensuring that we provide...do right by the citizens of Nebraska and give them...respect their due process in the notice involved. So with that I would yield the rest of my time, Mr. President, to Senator Pansing Brooks. [LB289]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Pansing Brooks, 3:30. [LB289]

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SENATOR PANSING BROOKS: Thank you, Senator Hilgers. Thank you, Mr. President. I'm not gonna talk a bunch more. I do want to get in this letter. There is a woman named Sakura Yodogawa-Campbell. And she came and testified and she said, it is easy to look at this as a victimless crime or that people choose to be there. We give labels like prostitutes, pimp, john, when, in fact, we're talking about trafficking. We do this to separate ourselves from others by saying this could never happen to me, but it did. I was 27. I'm sure most of you are thinking, well, how could it be 27? I was 27. I had no idea what trafficking was and that what I was experiencing was trafficking. I had nowhere to run. I was certain law enforcement would not believe me and my trafficker, my boyfriend, assured me that law enforcement would not believe me. For two years I lived in constant fear of when the next beating would come. I was constantly monitored and tracked. He knew who I spoke with or hung out with. It got to the point where I quit hanging out with others because he would either show up, have me followed, or constantly call me. He broke into my personal e-mail and deleted all my contacts. He would constantly accuse me of cheating on him and then beat me until I, quote, unquote, confessed to it. He broke my cell phone and so we had to get a joint plan which gave him even more access to me and anyone I communicated with. He cut up my clothing and dictated what I wore and how I looked. When that didn't seem like enough, we got a joint checking account so that he had access to all of my money. And that is when things began to go from bad to worse. We started frequenting adult shops, strip clubs, watching porn. It changed from getting a lap dance to being forced to have sex in the back room of the adult shops while others watched. When that wasn't enough, it was sex with others while he watched. And when that wasn't enough, it was swingers clubs. A friend came to me and I sat frozen while he raped her and then forced me to have sex. To refuse would have meant I was beat. And all the while he was doing this, he is telling me he loves me and I believed him. I was beaten down so far physically and emotionally that I felt I deserved this and through it all, he did love and care about me. [LB289]

PRESIDENT FOLEY: One minute. [LB289]

SENATOR PANSING BROOKS: He knew what he was doing. He did this to me by his own choosing and those that also participated did so knowingly. My only choice was about survival. I did make several attempts to leave, usually by jumping out of a moving vehicle or by cutting my arms in an attempt for medical intervention. It was the final attempt to kill me that I was able to escape and seek help...his final attempt to kill me. Our current laws do not do enough to protect victims and hold offenders accountable. It is the demand that is driving the business. By maximizing the penalties for the offenders, the perpetrators, we send a clear message to the victims that we see you. We hear you and we recognize you. We say that this type of criminal behavior is not acceptable in our state. What he did to me cannot be undone, but you have a chance to change the world for someone else. You have a chance to make that difference and minimize the impact on victims while maximizing penalties for perpetrators. [LB289]

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PRESIDENT FOLEY: Time, Senator. [LB289]

SENATOR PANSING BROOKS: This is a crime of coercion, violence, mental health and physical abuse. [LB289]

PRESIDENT FOLEY: Time, Senator. [LB289]

SENATOR PANSING BROOKS: Oh, thank you, sorry. [LB289]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Chambers to be followed by Senators Murante, Hilkemann, Pansing Brooks, Harr, Morfeld, Howard, Halloran and Albrecht. Senator Chambers, you're recognized. [LB289]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, this discussion has degenerated. I am hearing from Senator Pansing Brooks, somebody I deeply respect, somebody I care for deeply, and that's not a word that comes out of my mouth. This is what happens when people were trying to show there needs to be a death penalty. They brought up horrendous homicides which nobody would deny were horrendous to get away from the discussion of what was before us. Should the state be involved in killing? I've always been against the death penalty. I had mentioned at a hearing that I had a nephew who was murdered. His killer was not apprehended. My own son was shot, but not killed. And not once did I come to the Legislature and push for harsher gun penalties. What good would it do to say that if somebody shot my nephew, the penalty would be slow torture by boiling, and they didn't catch the one who shot him? But that would be the penalty for anybody else who shot somebody. But it was put there because of one irate angry uncle who's favorite sister's son was murdered. After my son was shot, I didn't come in here and say harsher punishments for people who use guns to shoot others. I am here not to be vengeful, not to seek revenge. I'm supposed to be above that. And as a lawmaker, that is the duty that I voluntarily assume. I've never said I don't have the angry feelings and emotions that other people have when certain things happen, but I would never try to make the settled policy of the state mirror those extremely, angry, bitter, vengeful feelings of a father whose son had been shot, of an uncle who had lost a nephew. We can understand the individuals who are victims being extremely upset, but that attitude that they feel when at a later time they admit was unbalanced because they do not carry that kind of attitude with them every minute of every day of their life, to say that we should take the unsettled state of mind of somebody laboring under the fresh pain of suffering the loss of a loved one, the policy of a state which is supposed to be a civilizing influence, which is supposed to show the way to an ordered democracy or ordered form of society no matter what the name of the particular type of government is. I can listen to people all day show the wounds and talk about the wounds. I can see photographs. I read historical accounts, but the historical accounts don't make me hysterical.

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I have a job to do on the floor of this Legislature and I'm going to do it. I will not be derailed by suggesting that because I want sanity in sentencing, I ignore the pain of victims. I have spoken more consistently on all issues where people are victimized, not just women, not just children, but even white men who have committed murder. I saved one who was under a death warrant. [LB289]

PRESIDENT FOLEY: One minute. [LB289]

SENATOR CHAMBERS: And the only reason he was saved was because I, as a senator, wrote a letter to the Chief Justice and judges of the state Supreme Court and that made it possible for them to look into his case again. And one of the judges told me, had I not done that, there might have been the execution of a man which should not have occurred because they prematurely issued a death warrant. That's what I did and I'm called all kind of things for that. They would hang me on a cross if they could or they thought I would go as meekly as Jesus went. And I'm not comparing myself to Jesus, because if I had what Jesus had, you wouldn't have babies born deformed. You wouldn't have people stumbling around in blindness. You wouldn't have families who cannot afford insurance for themselves and their children. But I'm not a Jesus. I'm not a god. I'm a black man doing the best that I can to overcome the... [LB289]

PRESIDENT FOLEY: Time, Senator. [LB289]

SENATOR CHAMBERS: ...feelings that I have based on what happened to us. Thank you, Mr. President. [LB289]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Murante, you're recognized. [LB289]

SENATOR MURANTE: Thank you, Mr. President. Members, good morning. I've listened to the floor discussion on this for the past two days and I think Senator Harr...to be clear, I do rise in support of LB289 and the underlying amendments. Senator Pansing Brooks had some comments, and what I would like to do is to relay a story to Senator Pansing Brooks and then I'm going to ask you a question after I'm done and then I'll yield you the rest of my time to answer it however you would like. Senator Pansing Brooks has done, I think, a very good job of illustrating the physical and emotional costs of the crime that she is attempting to increase punishment for. And I think that's a noble goal, that's why I support the bill. Senator Harr asked a policy question that I'm having a tough time wrapping my head around as a layperson and a person who never practiced law. So I'd like to tell you a story, Senator Pansing Brooks, and then I'll yield you time for a question. And I have to omit some of the details because I don't want the person's identity to be revealed, but it was a person that I knew, a young woman who was highly

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intelligent, very attractive person. Had a future was...the sky was the limit for her. I met her first when she was 21 years old and a student at the University of Nebraska-Omaha. She was looking for additional income to help pay her way through college. She made some choices and got involved in a rougher crowd. She got hooked on drugs. She...two years, after a period of two years, she was unable to work a three-hour shift without using heroin. By the end of that two-year period, she was emaciated. She had dropped out of college. She had attempted to commit suicide. When I last heard from her, she had left the city of Omaha and her whereabouts to her family are unknown. This is a person who had tremendous potential in life and that potential was wasted away by...and I recall commenting to my wife at the time that I would like to find the person who first proposed drug use to her because aside from the human cost, the societal cost of what she would have been able to accomplish and was wasted for nothing, to me was a moral issue. I wish we could put that person away for a very long time. So to me, that was a very...the drug use was more...it was an emotional situation. It had a human cost. It had a societal cost. And you bring up the same arguments with LB289, the emotional connection is what I felt towards this young woman and it was such a waste. So I hope not to get too emotional about it, but it was such a waste and such an opportunity that was gone. So my question for you, Senator Pansing Brooks, is what is the compelling reason, what's the policy rationale for saying that the tragedy that I witnessed--I didn't experience it, but that I witnessed--does not deserve a mandatory minimum but the tragedies which you describe do require mandatory minimums? [LB289]

PRESIDENT FOLEY: Senator Pansing Brooks, 1:20. [LB289]

SENATOR PANSING BROOKS: Again, this is not an argument about mandatory minimums. We chose classifications of penalties, because as you can see, previously sex trafficking of a minor, the minimum penalty was nothing, could get probation. So we moved it up, because especially on trafficking of a minor or trafficking of a minor with use of force. We had a case with somebody being raped by a hot curling iron. Those are some significant, heinous crimes and it affects people for their lives. And I agree you cannot make every law, Senator Chambers very articulately said you cannot make every law based on the most horrendous actions by criminals, but we do have to stop the market and the access. So I'm not sure I'm following exactly what you're saying. I'm willing to work with people on mandatory minimums. I agree that there should be no mandatory minimum on nonviolent drug offenses. Meanwhile, this is violent, my friends. So I'm willing to work with people and we can quibble about what's fair, but again, I don't expect kids to have to be subjected to do this, no matter how good or negative the story is. And I don't expect people to have to be treated this way who are victims. [LB289]

PRESIDENT FOLEY: Time, Senator. [LB289]

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SENATOR PANSING BROOKS: Thank you. [LB289]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Hilkemann, you're recognized. [LB289]

SENATOR HILKEMANN: Thank you, Mr. President. I rise to support LB289. I became more aware of this whole issue of sex trafficking. You know, it's interesting, once in a while you'll watch a 20/20 or you'll watch a Dateline or Laura Ling, or whatever her name is that's on CNN, and they'll talk about trafficking and they'll...but several years ago, actually when I was running for office, I got invited to a Christ Community Church in Omaha because they were doing a program called The Price of Life, which had to do with human trafficking. And it was a real eye opener for me that this is not a problem that just happens in Africa. It's not a problem that just happens in Chicago. This is not a problem that happens in Houston. This is a problem that happens in Omaha, Nebraska. It happens in our small towns in Nebraska. It is an issue that unfortunately is rampant in our state. With our interstate corridor, we are perfect transit for the transport of these sex victims. We cannot continue to hide our heads in the sand and say it doesn't happen in Nebraska. The things I learned that the people of this particular church are doing. Some of the women are going to some of the shaker clubs and things of that sort, meeting these women where they are and actually ministering to them, trying to break them out. There were some success stories. Of course, there is always the tragedy stories that are there. And I think it's important that we have punishment for those who will willfully profit from the selling of people and whether it's for labor or whether it's for sex or whatever else it is. And so I appreciate Senator Pansing Brooks bringing this legislation. It's important. And I will be supporting it because we've got to say no. And if there is no penalties for this, it's going to continue and we need to...one of the things we need to do, we need to get educated about this particular thing. It's one of those things that, you know, maybe...you think it doesn't happen...it can't happen in your family. It can't happen in your city. And it is. And as I mentioned one time before, my favorite professor in podiatry school used to use that expression, what we know is like a small island in the sea of ignorance and what we choose to ignore is immense. And this is one of those issues. And we need to put some teeth into what the people are doing. Therefore, I will be supporting LB289 and I thank Senator Pansing Brooks for bringing this. If there is additional time, you may have it. Okay, fine. Thank you, Mr. Speaker. [LB289]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Members, at this time some kolaches are going to be distributed on the floor of the Legislature, that's in celebration of the birthday of Senator Krist. Happy birthday, Senator Krist, and thank you. Senator Harr, you're recognized. We'll come back to Senator Harr. Senator Morfeld, you're recognized. [LB289]

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SENATOR MORFELD: Thank you, Mr. President, and colleagues. I wanted to rise in support of LB289. I do understand that there are some concerns. I understand that perhaps we'll be taking a look at this between General and Select File, and I know Senator Pansing Brooks has always been a reasonable person willing to work with others. That being said, I support LB289. I understand that we also have concerns about mandatory minimums. I have always been of the mind that we should eliminate mandatory minimums, certainly for nonviolent crimes, and certainly for drug offenses that are nonviolent, particularly because oftentimes I have found that individuals who have drug addiction problems oftentimes did not have access or adequate or affordable access to mental healthcare. And oftentimes they are not just recreational users, but trying to self-medicate and deal with issues or problems in their lives that they were not able to deal with in a more healthy manner through therapy and through mental health services. And so I understand there is a legitimate debate to be had with mandatory minimums. I think my position on that has been fairly clear. But in any case, I think that the crimes that are committed that LB289 addresses are long overdue for having stiffer penalties and I'm open to having a discussion if the introducer of the bill is, on maybe tweaks that can be made between now and Select File if that's the will of the body. But that being said, I still stand in strong support of LB289 and I encourage you to stand in support of it as well. Thank you, Mr. President. [LB289]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Halloran, you're recognized. [LB289]

SENATOR HALLORAN: Thank you, Mr. President, members of the Chamber. I need to apologize to Senator Pansing Brooks. We're in Judiciary together and we sat through the hearing listening to some very poignant and strong testimony on the part of people who have been victimized by this. And when it was over, I went up to Senator Pansing Brooks and I said, piece of cake. Well, it's not a piece of cake, I guess, but it should be. I don't want people to confuse what I'm gonna say, the term I'm gonna use is slavery. And I don't want people to...I'm not making a comparison to our past history of slavery, but this is a form of enslavement. And there are victims and it's very physical. People are hurt, not just emotionally, but physically. Drugs are used often to keep these victims in line. And I'm just..I'm not going to take my full time, but I'm going to stand in support of LB289 and the underlying amendments and I would ask everyone else to do the same. And I would relinquish the rest of my time to Senator Pansing Brooks. She waives. [LB289]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Harr, you're recognized. [LB289]

SENATOR HARR: Thank you, Mr. President, and members of the body. Let me be very clear because a lot of things have been impugned upon me that quite frankly are offensive and probably not true. I support LB289 and the underlying agreements...excuse me, amendments.

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But I'm having a policy discussion here about what is the proper penalty, and how do you shoehorn LB289 into what we have done the last two years? And how do we say this is different? That's all I'm asking. And I haven't really found an answer. Now, I listened to Ms. Pointer's story that Senator Pansing Brooks read...heart rendering...absolutely terrible. I hear her and I understand. But what I also heard in that story was no one was prosecuted. And if you think police are so callus that they won't prosecute someone because the sentence is only...or investigate and that prosecutors won't prosecute because the top sentence is 20 years, then you have never, ever been involved with law enforcement, because as heinous as we think this is, they think it's heinous. And even worse, they see it on the front lines. They deal with the victims. They don't have to have stories read to them...excuse me, letters read to them. They see it. They know what pukes these people are. All right? So don't disparage our law enforcement and our prosecutors because the sentences are too low. I understand what's going on. We have to decide what do we think is appropriate sentence? That's what we're trying to do. I heard that I...I did not compare that I thought it was on par from someone getting a car broken into to these crimes. No. What I was saying, my point and probably my fault, I wasn't clear enough, was to say how do we determine what is the sentence? What is the proper penalties? Because that person who gets their car broken into feels violated. Their trust has been destroyed. Is it as bad...and I said this before, and I apologize if I wasn't clear enough, is it as bad as being raped? Gosh, no way, not even close. But how do we make this determination? What do we do? I heard--we got to honor these...the victims, you know, who pays to get them out of jail? Well, the answer is really nobody. It's not their johns. This was my argument last year because we give these individuals immunity. Now when they get out of jail, you know what they do? They run back to their johns and we can't go after them because they have immunity. The john doesn't even have to bail them out. We let them go. That was my concern. We need to prosecute these individuals. And if we think just raising the limits we'll prosecute more individuals, that's not true. I haven't seen anything...any data to indicate that. I haven't heard anything...now, I'm not on Judiciary, so I didn't hear the hearing, but I haven't heard anyone of the floor say, if we raise these penalties, we will have more prosecutions. Let us put the emphasis where it needs to be, on the front lines. Let's not take money away from our State Patrol who do a lot of sex trafficking investigations. [LB289]

PRESIDENT FOLEY: One minute. [LB289]

SENATOR HARR: Probably more than any other agency in the state. Let's properly fund those agencies. Let's put the emphasis, or better yet, that money...let's put more money into it so we can hire more officers, so we can do more investigations. That's real and substantial change, not raising penalties for someone who's never been prosecuted. That doesn't do anything. I'm going to sit down after this. I'm going to work with Senator Pansing Brooks between General and Select. I hope she's willing to work with us to find a sentence that is appropriate, but to really



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focus on the problem and to apply our resources where it is best allocated and where it can have the best results. Thank you, Mr. President. [LB289]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Albrecht, you're recognized. [LB289]

SENATOR ALBRECHT: Thank you, Speaker, President Foley. You know, I rise today in support of LB289, AM599, and AM786. Senator Pansing Brooks, I thank you for bringing this bill. There are so many bills that are very difficult to wrap your arms around, but this particular one, I have spent time in my community at church events, at women's functions, that's all they're talking about is sex trafficking and bringing it to the forefront to let families know to protect their loved ones. But there are a lot of folks out there, women who are single parents who are trying to provide and protect their families, but yet their children or even themselves get caught up in things like this and they can't get away from that trafficker. He is...he has got his head wrapped around them and they can't get away. You know, I'm listening to the Legislature, and when we talk about cutting funds, whether it be at the Judiciary level, we're having trouble with Corrections, but yet, the number one problem that we're talking about are property taxes and TEEOSA and how important all of those things are. I think we as a Legislature...legislative body need to wrap our arms around the fact that this type of activity will not be tolerated in our state, nor will drugs. We have to decide whether we want to divert the funding toward something like this and make certain that we don't allow stuff like this to go on in our state. We want people that drive through our state on I-80...when I was a young girl, I remember my father said when we traveled with my mother, you're not to stop at a truck stop. You have to take the children somewhere else to a restaurant to use their facilities. Do not go...he was...he was very...it was very loud and clear to us where we should go and where we shouldn't go. Not everybody has that luxury of having a loving family that is protective and that has both parents to take care of you. But, you know, to Senator Harr, when you talk about, you know, too strict of penalties or not strict enough, we do have to have the resources to allow our State Patrol, our county, our city, whoever it is that's investigating these cases, to protect the innocent people because when they do get out, they don't have anywhere to go. All I heard about in these communities, churches, and groups that they're talking about are all these safe homes that these women and children can go to. And don't kid yourself, it's not just little girls, it's the little boys too. So, again, I support this wholeheartedly, and I will work as well as I can and to the best of my ability to make certain that things like this are taken care of. Thank you. [LB289]

PRESIDENT FOLEY: Thank you, Senator Albrecht. Senator Chambers. [LB289]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I've always supported bills like this. When nobody else would do it, I was bringing bills to protect those based on discrimination due to their sexual orientation. I don't wait until one issue comes up. I'm talking

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about these things all the time. When we were arguing about the rules, I was bringing up the problems of people who were victimized because we won't do what we should. So then for somebody, anybody to stand on this floor and suggest that we don't care about victim...myself, I'll speak for me. My life has been different from everybody in here. When I was a barber, there was an office in the shop and people would come down there to talk to me. I'm talking about victims. And here are the kind of victims that would come to me. A parent or family member who had a relative who was shot. Then the parents of the shooter. Who thinks about that mother, that father, those brothers and sisters, who are going to be treated as though they committed the crime. They came to me. I've had people come to me who lost a child through suicide. I've seen and worked with these people. I'm not a preacher. They know I don't have any religion. They didn't go to church because all they heard were words, but they saw the things that I did, and I supported people whom they hated. But it was the fact that I would support and try to help somebody whom they felt was not fit to live made them feel comfortable in coming to me with their particular problem. You all talk things, but you don't carry it out on all the issues. When we get to these tax bills and you cut money that would help children, as we did the other day, where is the consistency at least. It's not going to be here. But I don't care what you all do, I don't care what you don't do. I'm going to do what I think is right. And whatever the consequences are, I'm prepared to bear them. I will work with Senator Pansing Brooks because the bill is needed. But there's a difference between enacting legislation that defines and delineates what is a crime and what is being attempted to be achieved based on a tide of emotion, and saying, forget the damage done to the system of sentencing because it's going to be intermingled with the nature of the offense. You have to be able to compartmentalize these kinds of serious issues, and most of the people on this floor cannot do it. They'll feel emotional on a bill like this, but then, well, like Senator Groene's bill. I've seen children abused by teachers and I've gone into schools and physically restrained teachers. He hasn't seen it so he'll bring a bill saying teachers should be able to use force on these children. He cannot understand what I understand because he hasn't dealt with it. I think people in this state are lucky that I don't have a religious corpuscle in my body because I would be hiding behind religion. But it's just me and it's what I believe and it's what I shall do. And I will set an example by my conduct of what it is that I believe. Even though I support this bill, I have helped women who were prostitutes not being trafficked, but just because they felt there was nothing for them to do and it wasn't even the money. [LB289]

PRESIDENT FOLEY: One minute. [LB289]

SENATOR CHAMBERS: It was a time when people would say things to them that they knew were lies, but they wanted to hear somebody say the things to them and they were willing to go into that life. Prostitutes, a lot of times, are not physically attractive people. They're not wearing fine clothes, stiletto heels, switching their booties, and being the temptresses. They are...they are broken, damaged human beings who couldn't go to church so they had to come to one who is considered a minion of the devil. I have seen, I have dealt with people whom you all would not

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even want to be in the same room with. I watch the way some of you all look at people in these corridors. [LB289]

PRESIDENT FOLEY: Time, Senator. [LB289]

SENATOR CHAMBERS: Thank you, Mr. President. [LB289]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Howard. [LB289]

SENATOR HOWARD: Question. [LB289]

PRESIDENT FOLEY: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor of ceasing debate vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB289]

CLERK: 29 ayes, 2 nays, Mr. President, to cease debate. [LB289]

PRESIDENT FOLEY: Debate does cease. Senator Morfeld, you're recognized to close on AM786. [LB289]

SENATOR MORFELD: Thank you, Mr. President, and I want to thank all of our colleagues for the great debate on this issue. I think this really exemplifies the purpose of the Legislature and working together to find common ground even though there may be concerns and different ways of approaching issues. I just want to remind the body that AM786 is the amendment to AM599 which is the committee amendment, but in actuality, AM786 is an amendment to LB394 which was amended into AM599. LB394 addresses gun possession among those that have had domestic violence protection orders issued against them. AM786 clarifies that there are due process rights for those individuals with a domestic violence protection order against them in regard to gun possession. I want to emphasize that AM786 has been agreed to by both the NRA and the domestic violence folks that I've been working with on this bill. This makes it so that it's consistent and in line with current federal law regarding possession of guns and domestic violence orders. And I want to thank Senator Geist for working with me on this amendment as well, and I urge your adoption of it. Thank you, Mr. President. [LB289 LB394]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Members, the question for the body is the adoption of AM786. All those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB289]

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CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of the amendment. [LB289]

PRESIDENT FOLEY: AM786 is adopted. Mr. Clerk. [LB289]

CLERK: Senator Pansing Brooks would move to amend the Ebke amendment with AM785. [LB289]

PRESIDENT FOLEY: Senator Pansing Brooks, you're recognized to open on your amendment. [LB289]

SENATOR PANSING BROOKS: Thank you, Mr. President. I offer AM785...or was that AM786, anyway... [LB289]

PRESIDENT FOLEY: AM785. [LB289]

SENATOR PANSING BROOKS: Thank you. AM785 because I had talked to Senator Chambers ahead of this bill and wanted to show my good faith on trying to work on some of the wording with which he was concerned. When we...and I agreed to put in that we take out the word "consecutive" so that nobody could be charged with consecutive crimes. I thought that was a really good addition. Also we had taken out one of the words "recklessly", but it somehow got left out of the bill drafting. So, anyway, right now we're just dealing with the word...getting rid of the word "consecutive." So, and again, I'm happy to work with people on how we look at the penalties going forward. We need to look at this as an awakening of an understanding that we have been criminalizing the wrong people. And I appreciate all the discussion that's gone on here today. That's what our Legislature is about. And the heartfelt, very articulate remarks by Senator Chambers, it's really important for us to think through all of these issues. And so with that, I close. Thank you. [LB289]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Blood, you're recognized. [LB289]

SENATOR BLOOD: Thank you, Mr. President, fellow senators, friends, all. I try not to rise on bills like this because I know that there are so many people that have things to say. And I only rise when I feel I have something to contribute. With that said, I rise in support of both amendments and Senator Brooks's bill. But I want to bring a different light to the subject and they're words that I have not heard. First of all, I respect what Senator Chambers is doing because I understand that he wants to make sure that when we put new state statute in that pertains to sentences that they're done in a way that is truly going to embrace the topic and help

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the issue at hand, and not just be feel-good legislation. With that said, there's no insult intended in that phrase. But the words that I'm not hearing today are words about deception and coercion and violence. And that we have to understand that not all slaves that are...that were trafficked, but all victims of trafficking are definitely slaves. And we talk a lot about the victims and we talk about the sexual assault, but we're really not addressing the fact that we're talking about slavery here. Slavery was not abolished hundreds of years ago. This is slavery in our day and age. And the other issue that we're not addressing that's going to have to be addressed in the future, and I know it's one that everybody is uncomfortable with, is pornography. The biggest feeder that is known to sex trafficking is pornography. And until we address that dichotomy, and I certainly do not want to be in anybody's bedroom, but until we are able to address that issue, all the legislation that we bring forward is never truly going to make a dent on this issue. And so while we're...we're contemplating this bill and we're contemplating all of the victims that we want to help, all of these people that are now slaves, remember how they got there. And we're going to have to, to quote Senator Lowe, "put on our big boy pants", and we're going have to address some really uncomfortable issues or we will never truly make a dent in trafficking. [LB289]

PRESIDENT FOLEY: Thank you, Senator Blood. Speaker Scheer. [LB289]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. Caught me mid-bite. I apologize, but the kolaches are delicious. And I rise with probably not much purpose other than to share my own opinion. Those of you that have served with me for the last four years know that this is a topic that I am very concerned about and have brought legislation in regards to. My response to those that are talking and wanting to get involved in the sentencing portion of it, I would just simply say, there is a difference. And that's why there are differences in how we go about punishing different people by different acts. It's inherent in our judicial system. This is a different kind of crime. There should be a different type of punishment. To tie it to others, I find not to be part or germane to this topic. If we want to change others, then let's simply change the others. It has nothing do with this offense. I'm the proud father of two daughters. Both of my daughters have done extremely well during their lives. They're married and they have wonderful husbands. I've got a wonderful daughter-in-law. But I have four granddaughters and I would hate to think that any of them would be involved with this type of occupation or deceit or control. We have to keep our eye on the prize, the prize is making sure that none...no more grandchildren, no more daughters, no more sisters, no more aunts, ever have to go through this again. I don't rise many times. This is one of the few. It's very important to me. This is the good bill. There are the things attached, but this is a good bill. We need to continue to move forward, don't get bogged down. Things can be amended and they can be changed. They can be improved, certainly. No bill is perfect. I think, well, Senator Chambers may not agree because I'm sure he's had some perfect bills, but very few are perfect bills that go through. So having said that, we do the best that we can. If this isn't the best that we can do, then let's make constructive improvements, but let's

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move the bill forward. It's a good bill. We need to protect our young people. We need to protect our granddaughters. Thank you. [LB289]

PRESIDENT FOLEY: Thank you, Speaker Scheer. Senator Krist, you're recognized. [LB289]

SENATOR KRIST: Thank you, Mr. President; good morning, colleagues, and good morning, Nebraska. I was in the chair yesterday, did not get an opportunity to talk about LB289 or any of the package. Suffice it to say that I voted all of these out of committee and I feel very strongly that they are all good--not to say that they are perfect--but they are all good bills. And I think that between General and Select, there may be some issues that can be dealt with. I know Senator Harr does have some valid points about our consistency with our minimums. I have always been and continue to have extreme faith in the judicial branch of this state and particularly in the Supreme Court. I do not believe that when it says zero, in many cases on the low end of the sentencing parameter, that our judges when they look at these kinds of crimes, would be inclined to just put someone on probation or to look away. I don't understand the world of the prosecuting attorney, but I have heard so many stories and have heard so much testimony from those prosecutors, and the evidence is that they do plea and they do make deals. And in some cases, as in the death penalty, I think there are people who are convicted, I don't think, I know, when you look at the Beatrice 6, I know there were people who were convicted by a prosecutor taking something more...more off the table to give them less if a cooperation or information is given or in any number of cases. Now, I do want to interject this into the equation. We are living with a set of parameters that have been set in law, and in some cases, piecemealed for these statutes over the last hundred years. Actually, 150 years, if you go back to this being the Sesquicentennial. I'm introducing a resolution and I'm hoping to have it in some kind of draft form for us to look at, to look at those statutes, codes, and sentencing parameters, because, you know, it never occurred to me to ask the question that Senator Wishart asked earlier in the session, and that is, who decided it was 1 to 5, who decided it was 0 to 50? It is curious and it is a patchwork of things that are out there, and I think we need to look at all of those. Back to the point. LB289 and the associated package, I believe, needs to move forward and between now and Select there are some issues that need to be taken care of. But for the record, for the record I will say this state has in the last three years come a long way to addressing trafficking at the level that it needs to be addressed. We have organizations that are there. And when the crime is committed and law enforcement have people in custody, we have counselors now that are on scene to talk to the victims. And by the victims, I mean the prostitutes or those who are drafted into sexual trafficking. That never existed four or five years ago. We've taken huge steps to make sure that detection, awareness, and prosecution is there doing its thing. And law enforcement is working hand-in-hand with agencies across this state. The Attorney General and I do disagree on many things, but one thing that he has been consistent with is the crackdown on the trafficking issue across the state. And rest assured, I-80 corridor and some of the issues that were talked about

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yesterday do exist. And they exist in Council Bluffs and they exist in Omaha, but guess what?  
[LB289]

PRESIDENT FOLEY: One minute. [LB289]

SENATOR KRIST: The trafficking rate and prostitution rate has gone down in Council Bluffs. Now I would invite you between now and Select to look at the sentencing parameters and the active programs that are out there in Council Bluffs, in Iowa and Nebraska in Omaha. Because there is a measurement in a microcosm of how they forced their state, their city, forced all of those things, or most of those things, to the other side of the river because of our statutes, because of the way we enforce and because of those, the lack of support from some of those agencies that I just told you have kicked it up into high gear over the last three years. I'm going to ask you for green votes from now on. Move this off of General, get it on to Select. Give us an opportunity in the committee, and give Senator Pansing Brooks an opportunity to work on the language that needs to be cleaned up. Thank you, Mr. President. [LB289]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Schumacher. I do not see Senator Schumacher at the moment. Coming in now, okay. Senator Schumacher, you're recognized.  
[LB289]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. This is an important piece of legislation, not only for the item that Senator Pansing Brooks has in it, but also all the other bulbs on the Christmas tree. And we are seeing the consequences of trying to hurry a debate on many pieces of legislation, each of which could be examined closely and should be examined closely. But suddenly we all realize, we're kind of running out of time. And we're packing these Christmas trees full of bulbs. And we're making mistakes. And that's the consequence of more than 30 days of going in circles to end up right where we started. Now, I have great difficulty with some of the provisions of this bill. They are ambiguous, they put innocent people at risk. They're overly broad, possibly covering such things as Broadway plays, lots of other things. But I also know that at this part of the proceedings under the circumstances that we are dealing with, including all kinds of proposals for tax cuts while we have huge budget deficits, and draconian cuts in programs or postponing programs into the future, increasing their cost by not putting oil in the car now and thinking we could fix the engine later. All of those problems we've got to deal with. One thing that's good about the Unicameral process is the trust that we can build up between people. And I had a discussion with Senator Pansing Brooks. I can work with Senator Pansing Brooks. She can work with me. She can work with the rest of you who have serious and legitimate issues, and that's what the Unicameral can do. I don't like advancing something to Select File that is kind of haphazard and not been thought through and not, perhaps, gotten through what used to be a rather rigorous process in the committees. But I

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can do that. Senator Pansing Brooks can do it. Senator Chambers can do it. And I'm going to be willing to take the risk on this one in advancing it to Select File that some of the stuff that is poor policy and really not thought through can be refined and we can define exactly what we want to and we can end up not inconsistent with ourselves on such things as mandatory minimums, which, in the sober light of day are highly questionable things, both in costs and in utility. I'm going to support this and I'm going to hopefully we'll help facilitate moving some of the stuff that's less controversial through the agenda this morning. Get to a bill that suddenly showed up on the agenda yesterday that I happened to sponsor regarding municipal financing, which will probably be fairly controversial, but let's work together. I trust that Senator Pansing Brooks has extended a good faith in trying to work through these very technical issues and sometimes emotional issues. So, at this point, I would support moving this to Select File with that understanding. Thank you. [LB289]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Chambers. [LB289]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I support this amendment that Senator Pansing Brooks is offering. She mentioned that the term "reckless" may not have gotten into the amendment. I'm not concerned about that because we will work. But not everything can be pushed forward. This bill once in the Legislature becomes our property. The Attorney General has to be told to take a flying leap and let us do our job. I have to fight against that man more than anybody on this floor, and he's got his defenders, because he's got that title. But he brings this bad stuff, then we have to fight it here on matters that should not have even gotten into the bill in the first place. He's a politician. He's going to stay a politician. He may have other offices in mind that he's going to run for. I'm a member of this Legislature, have been a member for four decades and I've worked harder than anybody who's ever been in this Legislature, because I believe in what I'm doing, and I feel a sense of responsibility and obligation. When I'm supporting a bill that somebody is on, they like that. When I'm opposed to one they're on, I'm the devil. Well, what I am is what I am and I may be perceived to be different things by different people based on how they feel, that's why I don't even care what people say in terms of how they feel about me or what they think of what I'm doing. I'll say like Scrooge when the ghost was coming, a piece of undigested pork, a spot of mustard, that's why he's seeing ghosts. Well, people have reasons for behaving like they do. And I've had some very disgruntled, discombobulated, disturbed people approach me. And when we'd be in that office, which some people thought of as a psychiatrist annex, when somebody was extremely agitated, I knew it would be pointless to argue with the person, to try to reason with the person, so I would just listen. I would listen until that anger, whatever it was, dissipated. Then the first thing I would say, this is what I have come to understand as your problem, and now I'm going to ask you this. If I could do exactly what you would like to have done, what is that thing you would like to have me do? And you know what a lot of them would say, I don't know. I'd say, then why did you come to me? Because I thought you would have the answer. Well, why do you think I'd have the answer?



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I've seen you help other people. Well, those other people didn't have a problem like yours. But I think you'll find a way. I'm not making this up. This is what I hear. I get calls from white people all over this state. The first thing they want to tell me is how they don't agree with everything that I do, how they really supported term limits. All the negatives, then they ask me for the help that they think only I can or would be willing to give. And in many instances, they've called other senators' offices and they can't get past whoever answers the telephone. So when I answer my telephone, they're surprised at that happening. It's one thing to let an issue that you feel very strongly about lead you to say all of the things that are pent up, but then somebody like me is going to observe and see if that same attitude is manifested when we deal with similar problems. For example, cutting assistance that is to help children. How do people get into trafficking? Maybe because at an early age a parent... [LB289]

PRESIDENT FOLEY: One minute. [LB289]

SENATOR CHAMBERS: ...could not provide that child what the child needed or even herself. So we won't tie all this together. We'll say we've got to close the budget gap and everything else goes out the window. Child credits, that has to go out the window. I don't care what Senator Stinner wants to do. He is not dictating to me and neither will any of the rest of you. And if you think I've been mean on some bills, wait until we get to those budget bills and you start hurting people to close a budget gap when you've got a Governor who's more interested in cutting the taxes of rich people and big landowners. It may seem like a hodgepodge, but I have a method and a logic to everything I do. Thank you, Mr. President. [LB289]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Crawford. [LB289]

SENATOR CRAWFORD: Thank you, Mr. President. I rise in support of our efforts across this state to strengthen our policies to fight sex trafficking. And I am in support of AM785 and AM599. I have not been actively engaged in this debate, but I've been following this debate and I think that it's been a very important debate in terms of making sure that we are clear when we are increasing our penalties that we're very clear in our language of to whom those penalties apply, and being very careful about thinking about unintended consequences and who might get caught in that definition who might not be the kind of person that we mean when we're talking about cracking down on sex trafficking. And so that's been very important conversation that's been happening on the floor. And I thank all of my colleagues who have been engaged in that conversation in terms of raising those questions and I thank and appreciate Senator Pansing Brooks's engagement in that debate as well to try to make sure that we're having a good clear discussion about what those terms mean and to whom those penalties apply. And I am confident. I've heard in the debate so far that this is an ongoing conversation to continue to make sure that we tighten some of those definitions between General File and Select File, and I am confident in

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the ability of the folks who have stepped up to say they're working on that in terms of making sure that we have good effective work in that direction as this goes from General to Select File. I think...and I've already talked to Senator Pansing Brooks as well to share some concerns just for the record in terms of sexually explicit performance, what that means, and what the soliciting of that means as one of the issues that I think is an issue we want to make sure we're very clear about moving forward. If there are legal forms of activities in our state that fall under that definition, just making sure we're very clear about what is in that definition and what is not and what soliciting means in terms of that definition to make sure we're being very focused on those sex trafficking concerns that we are...that we find...that we're trying to make sure that we're allowing ourselves to prosecute and penalize. It's also the case as after the discussion yesterday, I went back to look at the penalties in the bill and there are very few that are quote, mandatory minimum, unquote. So it does raise penalties but there are...most of them are not mandatory minimum penalties. And I've also heard in the debate so far, conversation about willingness to examine those that remain in the bill. And so I'm willing to put that aside in terms of moving this bill to Select File with the understanding that those conversations are going to be continuing in terms of tightening the language and thinking carefully about the mandatory minimum issue. And when this comes back on Select File, that there have been conversations and clarifications on those points. It's very important work and I just thank Senator Pansing Brooks for her tireless work on this over multiple years and also all the other stakeholders who have been involved. This has been an effort with Women's Fund and our universities, including Creighton University, and other stakeholders, our churches who have all been trying to come together to tackle this issue in our state. And these policies that are in AM599 that will pass as LB289 are important steps forward in terms of strengthening our protection orders and strengthening our laws to make sure that there are laws are also allowing us to tackle this problem. But it is not just our laws that are important... [LB289]

PRESIDENT FOLEY: One minute. [LB289]

SENATOR CRAWFORD: Thank you...in tackling this problem, it's also all of our other community partners and they also are stepping forward and our local subdivisions. All of the partners involved have been engaged in this conversation. We've had a lot of productive conversation and movement in this state and this bill, as it moves forward and is refined, is an important part of that ongoing work in the state to continue to improve our efforts to fight this scourge of sex trafficking. Thank you, Mr. President. [LB289]

PRESIDENT FOLEY: Thank you, Senator Crawford. (Visitors introduced.) Continuing debate. Senator Chambers. [LB289]

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SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I'm appreciative of what Senator Crawford said. She's talking about nuance thinkin, precision in defining, making sure that what we mean to hit target A will not inadvertently hit target B. Here is what lay people need to understand about that term, "mandatory minimum." When a statute carries a punishment, because the statute deals with a crime, and it says 5 years to 20 years. It doesn't use the term mandatory. But, there is a mandatory half of that minimum that must be served before a person can be considered for parole. So when you go from zero as the minimum to 20, the mandatory is 10 years. A court cannot sentence anybody to a minimum below what the statute calls for; cannot sentence anybody to an amount of years more than what the maximum calls for. There is a bracket. So, when a 20-year sentence becomes the minimum, you don't have to say mandatory minimum of 10 years. When you say 20 years, that sentence is cut in half because of the good time law but before anybody can even be considered for parole, and that doesn't mean they'll get it, they must serve half of that minimum. They must serve 10 years. That is mandatory. And when lawyers are discussing issues and lay people are in the discussion, lay people don't understand what is being said unless it's broken down into the language of lay people. I'm sure the Attorney General is the one who dragged some people off of the floor and said, there's no mandatory minimum in this bill. There's no mandatory minimum. But there is. Every time you set a minimum, half of that is mandatory. Then why so much concern a person like myself would have with a sentence that's called mandatory? When you just set a minimum, good time is available and that minimum is cut in half automatically. When you say mandatory minimum, that number of years must be served day-for-day, it's not diminished by good time. Good time after that five-year, whatever the period is, starts to be added, it doesn't go back retroactively, and you get it doubled for the period when you couldn't get it under that mandatory sentence. These terms have a meaning. And when the Attorney General sends these bills over here, he does not explain them. He wants there to be confusion so that in those of us who are trying to bring truth in us, he sees a threat. So if he can confuse the issue, then the real matters are never discussed, side issues are brought up such as--you're saying there's a mandatory minimum, and the statute doesn't say mandatory minimum, and then the Attorney General sits back and he says, I've got them on that false trail. I got them running up a blind alley. I have them knocking on the wrong door. I have them barking up the wrong tree. And I'm going to win this based on confusion, disingenuousness, and an unwillingness of my colleagues to take the time to understand... [LB289]

PRESIDENT FOLEY: One minute. [LB289]

SENATOR CHAMBERS: ...what it is we're doing. We need to study. I use analogies. I use metaphors. The "Bibble", a part written by old St. Paul, you all call him the Apostle, I call him the "imposter", writing to Timothy: Study to show thyself approved. Study...a workman unto God that needeth not to be ashamed. Study. That's what I tell you all. Study. Thank you, Mr. President. [LB289]

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PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Chambers, you're recognized for additional time. This is your third opportunity. [LB289]

SENATOR CHAMBERS: Thank you. And I'm not going to try to stop this bill from moving. I told you all I referred--and it probably has ruined a reputation--to Senator Pansing Brooks as my goddaughter and said that goddaughters don't always find agreement with godfather and godfather does not always find agreement with goddaughter. But as the "Bibble" said, whom he loveth, he chasteneth. Now, I'm quoting that word. Love is something based on my study and understanding is an emotion, or whatever you call it, that people with hearts understand and experience. So, I can only talk about that on the basis of hearsay. So if I happen to use those words, they don't mean the same thing when they come out of my mouth that they mean when other people use them. Because in my study, love is something that wants the best for whoever is the object of that affection. So how is it that people can say they love somebody and then abuse that person? So I don't use those chameleon terms. They don't really have any meaning. Some people have called it temporary insanity--makes your heart beat fast, makes your palms sweat, make you talk out of your head. Well, that's insanity, but it's also love. So, you all who have hearts can deal with that. I really don't need it. If I am a neurosurgeon, and you have a brain tumor, you don't want me to cut through that...well, drill through that skull and that dura and get down to this gelatinous material called your brain and be emotional. Say, wow, this is where the soul is, if there's a soul. This is where all of those emotions...no, what you want me to do is use that little miniature vacuum, because you can't use cutting tools on a brain, and remove as much of that tumor as I can. If I'm lucky, it's like beads and I can just roll those away. Others will be on the surface and I can get a lot of that removed and some of it has made itself entangled with blood vessels, with nerves, and with that tissue, and that's where you have the serious problem. That person is not going to survive. So you do what you can. When we have these kind of bills where everybody is highly emotional, it's like the brain, but there still has to be somebody who's going to be calm enough, competent enough, professional enough, and detached enough to do the hard work that needs to be done to remove that which is detrimental while not damaging the underlying tissue. That's what I want to see done with this bill. You're not going to let me do it. But I'm going to try to the extent that I can and you should place more confidence and trust in me than you do the Attorney General because the Attorney General is the one who put this bad piece of legislation here and put you into this mess and created more work for me. Senator, well, I'll say "Professor" Schumacher, we're going to have work from "Brother" Hilgers, the youngster, and others who are people of goodwill but also understanding of the law. [LB289]

PRESIDENT FOLEY: One minute. [LB289]

SENATOR CHAMBERS: My goddaughter will be that overarching goodness that is supposed to make everything like it ought to be. So if we all work together, we can bring a silk purse out of what is right now a sow's ear. Thank you, Mr. President. [LB289]

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PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Pansing Brooks, you're recognized to close on AM785. She waives closing. The question for the body is the adoption of AM785. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB289]

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of the amendment. [LB289]

PRESIDENT FOLEY: AM785 is adopted. Returning now to debate on LB289 and the pending amendment. Senator Ebke, you're recognized to close on AM599. [LB289]

SENATOR EBKE: Thank you, Mr. President. And just a reminder that AM599, as amended by Senator Pansing Brooks and Senator Morfeld's amendments, now becomes the bill. It is the Judiciary Committee package. Thank you, Mr. President. [LB289]

PRESIDENT FOLEY: Thank you, Senator Ebke. Members, the question for the body is the adoption of AM599. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB289]

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption Senator Ebke's amendment. [LB289]

PRESIDENT FOLEY: AM599 is adopted. Senator Pansing Brooks, you're recognized to close on the advance of LB289 to E&R Initial. She waives closing. The question for the body is the advance of LB289 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB289]

CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB289]

PRESIDENT FOLEY: LB289 advances. Items for the record, Mr. Clerk. [LB289]

CLERK: Thank you, Mr. President. Health and Human Services Committee reports LB401 to General File. Amendments to be printed: Senator Williams to LB518; Senator Baker to LB595; Senator Vargas to LB427. That's all that I have, Mr. President. (Legislative Journal pages 836-838.) [LB401 LB518 LB595 LB427]

PRESIDENT FOLEY: Thank you, Mr. Clerk. We'll proceed on the agenda now to General File, 2017 Senator priority bills. Mr. Clerk.

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CLERK: LB34, Mr. President, a bill by Senator Ebke. (Read title.) Introduced on January 5 of this year, at that time referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. I have no amendments to the bill, Mr. President. [LB34]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Ebke, you're recognized to open on LB34. [LB34]

SENATOR EBKE: Thank you, Mr. President, and for something entirely different this should be a very simple bill. LB34 would say that a candidate is a registered voter of a particular political party if required pursuant to Section 32-702 and the political party has at least 10,000 persons affiliated as indicated by voter registration records in Nebraska, or at one of the two immediately preceding statewide general elections a candidate nominated by the political party pulled at least 5 percent of the entire vote in the state at a statewide race. What this essentially does it just adds one sentence. Currently in state law, state election law, in order to maintain ballot status a political party has to have...has to have somebody poll at least 5 percent in a statewide race. This allows the maintenance of ballot access if the party has at least 10,000 registered voters, and then they can run people at all levels and don't have to worry about that 5 percent in a statewide race. Thank you, Mr. President. [LB34]

PRESIDENT FOLEY: Thank you, Senator Ebke. Debate is now open on LB34. Seeing no members wishing to speak, Senator Ebke, you're recognized to close. She waives closing. The question is the advance of LB34 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB34]

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB34. [LB34]

PRESIDENT FOLEY: LB34 does advance to E&R Initial. Proceeding to the next bill, LB432. Mr. Clerk. [LB34 LB432]

CLERK: LB432 is a bill by Senator Erdman. (Read title.) Introduced on January 17, at that time referred to the Government, Military, and Veterans Affairs Committee. The bill was advanced to General File. There are committee amendments. (AM289, Legislative Journal page 744.) [LB432]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Erdman, you're recognized to open on LB432. [LB432]

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SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor, and good morning, Nebraska. I rise today to introduce LB432, give a little background as to how I got to the LB432. As I attended the budget hearings of the ESU and the community college and those people who collect taxes, property tax, I began to discover that they have an exorbitant amount of cash in their reserve. And as I began to look back to see how is it that they can accomplish that and accumulate that kind of cash reserve, I discovered the statute that said that they could ask for up to 5 percent of their budget for unpaid taxes, delinquent taxes that weren't paid in the state of Nebraska. And if you're not aware of it, on the first Monday in March, every county treasurer in the state of Nebraska has an auction, and they sell the certificates that have not been paid. The taxes have not been paid, they put those up for sale. It's a lottery system. Those certificates pay 14 percent interest. And when one can get 14 percent interest, they have a line, they have people standing in line to buy those. And so consequently, once those sales have happened, 99.9 percent of all personal...of all property taxes are paid on an annual basis. We sent out a survey to 93 counties, every county received a survey, asking how many unpaid taxes or delinquent taxes do you have on an annual basis. Twenty-six counties responded. The average unpaid taxes in the state of Nebraska is .1 percent, .1 percent. So 99.9 percent of all taxes, property taxes are paid on an annual basis in the state of Nebraska. So when I analyzed the junior college system and I looked at that, of the junior college system we have several of the junior colleges that use that 5 percent, and the junior college, Central Community College, collects \$2.5 million a year extra based on the 5 percent of their tax asking and they use that money to put it in their cash reserve. That's money that they take from the taxpayers and they hold in a cash reserve. One of the ESU units, we went to their budget hearing and asked why they had \$5.9 million in reserve and they said, so we can build a building some day. I don't believe that's good use of my tax dollars nor yours. And so what LB432 does it eliminates that provision for collecting unpaid taxes because there is no such thing in the state of Nebraska. We did have one person testify in opposition and the question that was raised was, what happens when we can't sell tax certificates? Well, back in the '80s the interest rate became high enough that the banks were paying 14 and 15 percent on their CIs and we had trouble selling tax certificates in the '80s because you could get a 14 percent return by putting it in the bank. So I amended LB432, and Senator Murante will talk about that amendment in a moment, but I've amended LB432 to accomplish and provide a provision so that they can do this again. So as I look at those things that have happened over time and the way that they have abused that 5 percent above their budget to build their cash reserve, I believe it's time to pull that back and to eliminate that provision as long as there is no such thing as unpaid taxes. So I have encouraged your green vote on LB432. It is my attempt in a small way to help with property tax relief, and I would ask you to join me in helping accomplish that. Thank you. [LB432]

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SPEAKER SCHEER: Thank you, Senator Erdman. (Visitors introduced.) As the Clerk stated, there are amendments from the Government Committee. Senator Murante, as Chair of the committee, you're recognized to open on that amendment. [LB432]

SENATOR MURANTE: Thank you, Mr. President; members, good morning. AM289 is a compromise amendment that eliminates the opposition to the bill that was stated by Senator Erdman. The amendment keeps the authority of political subdivisions to make allowances for delinquent taxes in their biennial budget statement but qualifies its authority as only existing when the prime rate established by the federal reserve is 10 percent or more. This means that political subdivisions would only have the authority when the tax liens they currently offer on delinquent taxes are unattractive investments. The reason for this was pretty simple. Senator Erdman really laid it out very well. The argument was that the delinquent taxes...while citizens of the state may not pay the delinquent taxes, the certificates are sold and therefore for the purposes of the political subdivisions they are paid. The question became, as Senator Erdman said, what happens when the tax certificates are no longer attractive investments. And Senator Erdman's bill, as amended by AM289, addresses that issue, and I believe remedies the problem. As I said, it's...the League of Municipalities testified in opposition to the bill, but with the amendment they are no longer opposed. So I would encourage your adoption of the amendment and your advancement of LB432. Thank you, Mr. President. [LB432]

SPEAKER SCHEER: Thank you, Senator Murante. Senator Briese, you're recognized. [LB432]

SENATOR BRIESE: Thank you, Mr. President, and good morning, colleagues. I rise today in support of LB432 as amended by AM289. And I thank Senator Erdman for bringing this bill. As I traveled across the 41st District campaigning the last two years, I heard a continuous clamor for property tax relief. And it's no wonder why property tax collections in Nebraska exceed combined individual and corporate income tax collections by 50 percent. Property tax collections exceed state, local, and motor vehicle sales tax collections by 70 percent. Nebraskans are demanding property tax relief and they deserve property tax relief and we'll have a bigger discussion about this issue another day, but I believe this bill is a first step this session in bringing some measure of property tax relief to Nebraskans and I'd encourage your support. Thank you. [LB432]

SPEAKER SCHEER: Thank you, Senator Briese. Seeing no others in the queue, Senator Murante waives closing. The question before us is adoption of AM289. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB432]

CLERK: 32 ayes, 1 nay, Mr. President, on the adoption of committee amendments. [LB432]



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SPEAKER SCHEER: AM289 is adopted. Going back to LB432. Seeing no one wishing to speak, Senator Erdman, you're welcome to close. [LB432]

SENATOR ERDMAN: Thank you, Mr. Speaker. I'll be real brief on this. I was remiss in not mentioning that that 14 percent that's paid on these certificates is paid by the person who owns the property. It's not something that the county or whoever collects the taxes pays, it's paid by the person who has the property. And with that, I would encourage your green vote. Thank you. [LB432]

SPEAKER SCHEER: Thank you, Senator Erdman. The question before us is advancing LB432 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB432]

CLERK: 32 ayes, 1 nay, Mr. President, on the advancement of the bill. [LB432]

SPEAKER SCHEER: LB432 is advanced to E&R Initial. Mr. Clerk, next item. [LB432]

CLERK: LB444 is a bill by Senator Walz. (Read title.) The bill was introduced on January 17, referred to the Judiciary Committee, advanced to General File. There are committee amendments pending, Mr. President. (AM467, Legislative Journal page 634.) [LB444]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Walz, you're welcome to open. [LB444]

SENATOR WALZ: Thank you, Mr. President. I bring forward LB444 today on behalf of the Fraternal Order of Police. This bill would require that no city or county that already offers individual or family health insurance to law enforcement officers can cancel that policy if the law enforcement officer suffers an injury from an assault while in the line of duty. Section 3 of the bill also states that the city or county may cancel such health insurance if the officer does not return to employment within 12 months. We added this provision to ensure that small towns or counties aren't under a great financial burden for long periods of time. I want to briefly share why this bill is important. On December 3, 2015, Mike Hutchinson, a Deuel County Deputy was shot four times in the torso while serving a high risk arrest warrant. Mike spent months recovering from his injuries. On Friday, May 27, 2016, just a week after his latest hospital stint, he received a letter that his family's health insurance was going to be canceled on June 1 because he was not working the minimum of 30 hours per week. Given that it was a holiday weekend, there was no time to appeal or make other arrangements and his family was without insurance the next week. We have a priority to support the brave men and women who put their lives on the line every day to protect us. We cannot let what happened to Mike happen again. There is an

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amendment to this bill, AM467, that would amend the bill to include all first responders, not just police officers. This bill passed in committee with no opposition. I ask for your green vote on LB444 and AM467. Thank you, colleagues, and thank you, Mr. President. [LB444]

SPEAKER SCHEER: Thank you, Senator Walz. As the Clerk stated, there are amendments from the Judiciary Committee. Senator Ebke, you're recognized as Chair of the committee to open on the amendments. [LB444]

SENATOR EBKE: Thank you, Mr. President. LB444 is amended by AM467 by Senator Walz would prohibit cities and counties from canceling health insurance coverage for injured law enforcement officers. LB444 was heard in committee and saw no opposition and two neutral testifiers. It was advanced to General File with AM467 by a vote of 7-0 with one abstaining. The committee amendment, AM467, is a small change that would serve to expand the applicability of LB444 from only law enforcement officers as originally written, to now include all first responders as defined in a new subsection 4. This new definition includes sheriffs, deputy sheriffs, police officers, volunteer or paid firefighters or out-of-hospital medical-care providers like EMPs and paramedics. I would encourage the adoption of the committee amendment, AM467, and the advancement of LB444 to Select File. [LB444]

SPEAKER SCHEER: Thank you, Senator Ebke. Senator Friesen, you're recognized. [LB444]

SENATOR FRIESEN: Thank you, Mr. President. Would Senator Ebke yield to a question? [LB444]

SPEAKER SCHEER: Senator Ebke, would you please yield? [LB444]

SENATOR EBKE: Yes. [LB444]

SENATOR FRIESEN: So in the amendment you state that now all first responders qualify for this, but you mentioned, I think, in the amendment it talks about only those employed by a city or county, so if you have a volunteer first responder that's working in private industry, this does not cover them? [LB444]

SENATOR EBKE: Correct. It just applies to the cities and counties and applies to those who are already receiving their insurance through the city or county. [LB444]

SENATOR FRIESEN: So those insurance policies, though they would be directly (inaudible) of their employment only, not because they're a first responder? [LB444]

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SENATOR EBKE: Right. Yes, only to their employment by the city or the county. If you're talking about volunteers, unless they receive their insurance through the county or the city. [LB444]

SENATOR FRIESEN: Right. And I would assume that they are a volunteer first responder, they're not employed by the fire department or any other... [LB444]

SENATOR EBKE: Right. [LB444]

SENATOR FRIESEN: Okay. Thank you, Mr. President. [LB444]

SPEAKER SCHEER: Thank you, Senator Ebke and Senator Friesen. Senator Albrecht, you're recognized. [LB444]

SENATOR ALBRECHT: Thank you, Mr. Speaker. Would Senator Ebke actually yield to a question, real quick? [LB444]

SPEAKER SCHEER: Senator Ebke, would you please yield? [LB444]

SENATOR EBKE: Sure. [LB444]

SENATOR ALBRECHT: So, on this amendment, when we single out just a city and a county, so we're having a lot of trouble in our Corrections. Was that ever a thought process that if you worked at the State Corrections and are injured, would that be an option? [LB444]

SENATOR EBKE: That wasn't something that we had really contemplated in the amendment. [LB444]

SENATOR ALBRECHT: Thank you. And Senator Walz, could you please yield to a question? [LB444]

SPEAKER SCHEER: Senator Walz, would you please yield? [LB444]

SENATOR WALZ: Yes. [LB444]

SENATOR ALBRECHT: Can you tell me is this gentleman back to work yet? [LB444]

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SENATOR WALZ: No, he's not. [LB444]

SENATOR ALBRECHT: He's not. Will he still be out for some time? [LB444]

SENATOR WALZ: Yes. [LB444]

SENATOR ALBRECHT: Okay. You handed out a...I believe it's...is this from the Omaha World-Herald article? [LB444]

SENATOR WALZ: Yes. [LB444]

SENATOR ALBRECHT: And it states in here that Sheriff Tim Dunning from Douglas County said his deputies can have up to a year to recover from on-the-job injuries and they would keep their insurance. That time could be extended if he thinks the deputy is getting better. You said if I knew from a doctor that that person's ability to come back to duty was sometime in the near future, we would probably extend that time, he said. Now, I understand that you're talking about smaller communities. Correct? [LB444]

SENATOR WALZ: Yes. [LB444]

SENATOR ALBRECHT: Okay. So again, I went from the big city to the small communities and what we find is we have fundraisers, you know, to raise money for families if they've been hurt, injured, or even a loss of life. Is that something that was put on by this gentleman at all in his particular area, do you know? [LB444]

SENATOR WALZ: I don't know that. [LB444]

SENATOR ALBRECHT: Okay. Well, again, if this bill is coming because of one individual, if I knew that there were several cases and this is just a major problem with smaller communities or even larger ones, generally speaking, I feel like people do try to take care of their own, whether it be in their own community or families or...so again, I can't stand up and support something like this because, again, we're just singling out certain folks and I absolutely would be the first one to tell you, I mean, my father was 35 years as a volunteer fireman. I have a brother that's a firefighter, EMT for Omaha. I understand these things. But I also don't believe that we should just put a bill together for one situation. Again, I would hope that that county that sent this gentleman out over this sheriff's office can work with their county or city officials to rectify the situation without just pulling the insurance. Surely there would be some sort of a fund that they

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could draw on. But I just...while I appreciate and respect Senator Walz for bringing this forward, it's just not something that I could feel good about supporting. Thank you. [LB444]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Thank you, Senator Albrecht and Senator Walz. Senator Crawford, you're recognized. [LB444]

SENATOR CRAWFORD: Thank you, Mr. President. I rise in support of LB444. I just want to clarify what I think I see in the amendment and some of the early conversations of...the question that Senator Friesen asked. So I wondered if Senator Ebke would answer a question about the amendment? [LB444]

PRESIDENT FOLEY: Senator Ebke, would you yield please? [LB444]

SENATOR EBKE: I will. [LB444]

SENATOR CRAWFORD: Thank you, Senator Ebke. So the amendment does include volunteers in that definition of first responders. But I assume that you're saying it because the other parts of the amendment say that this applies when you are employed by the city or county that that's really the key piece that's ruling out the people who are totally volunteers for the subdivision. [LB444]

SENATOR EBKE: Yes. Well, if you're a city or a county, and we don't know that this happens, it could. If the city or county allows volunteers to purchase insurance through their group plan, okay, that means that they would be buying it themselves, it prevents them from canceling it because they aren't currently active. Okay? Even though the employee...or the volunteer would still be paying. [LB444]

SENATOR CRAWFORD: Okay. So you are intending, with the amendment, to still cover those volunteers who are on a group plan. [LB444]

SENATOR EBKE: If they are on the group plan of the city or the county, not their personal. If they've got a separate employment, it wouldn't count that. [LB444]

SENATOR CRAWFORD: Right. So I guess I'm concerned about the language then in Section 2 of the amendment that says the city or county shall only be obligated to provide such health

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insurance while the first responder is employed with the city or county. That seems to contradict the answer that you just gave that if they're a volunteer on the group plan, they would be covered. I'm concerned about that inconsistency. [LB444]

SENATOR EBKE: Yeah. We'll work on the...I just had this handed to me. We'll work on that. We can work on that language if we need to. You're looking at number city...number 2, rather, the city or county? [LB444]

SENATOR CRAWFORD: Yes. And I can ask...I'm going to ask the question to Senator Walz in terms of her intent and conversations on this bill. If Senator Walz would yield to a question. [LB444]

PRESIDENT FOLEY: Senator Walz, would you yield, please? [LB444]

SENATOR WALZ: Yes. [LB444]

SENATOR CRAWFORD: So, Senator Walz, was it your intent with this bill to cover volunteers who were buying into a group plan, if they're volunteers, or was it your intent to focus on those first responders who are employees, per se? [LB444]

SENATOR WALZ: I believe it was our intent to focus on volunteers who are already employed and being offered that health insurance. [LB444]

SENATOR CRAWFORD: Okay. All right. So were you involved in the conversations about the amendment? [LB444]

SENATOR WALZ: Yeah. [LB444]

SENATOR CRAWFORD: Okay. Okay. All right. So I think we need to decide whether...as it's written I think it is focusing on employees, despite the fact that volunteers are mentioned. So I'm concerned about making sure we're clear about whether we're covering volunteers or not, and being clear about the intent and being clear that the bill does what we think it does. So I'll...just wanted to put that on the record and make sure we address that and we're clear about that and we can continue to have conversations about what that intent is, or if I'm misunderstanding that from the language, off the mike. Thanks. [LB444]

SENATOR WALZ: All right. Thank you. [LB444]

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PRESIDENT FOLEY: Thank you, Senator Crawford, Senator Walz, and Senator Ebke. Senator McDonnell, you're recognized. [LB444]

SENATOR McDONNELL: Thank you, Mr. President. I rise in support of AM467 and LB444. It was mentioned earlier about the community stepping forward when you have an injured first responder what they do. It's...being the fire chief for the city of Omaha for six years and serving for 24 years, we did have members that made the ultimate sacrifice and gave their lives for the citizens they served. Strangers that they responded to that morning, saying good-bye to their families and going to work and then making that emergency call and making the ultimate sacrifice. They don't do it based on the idea of how much money they're going to make, exactly what their health insurance is going to be, exactly what all their benefits are going to be. They do it because they care and they want to make a difference for their community. And when one of them does make the ultimate sacrifice, the community does step forward. But also we should make sure, as happened with Deputy Hutchinson, the day before he was receiving health insurance for him and his family. The day he was shot four times, immediately after that, he was no longer insured. He wasn't asking for anything special. He wasn't asking for anything more. What he was asking is be treated the way he was being treated prior to making that sacrifice for the citizens he was serving. I'd ask all of you to think about those first responders and the message we're sending today. The idea of just saying that we know the communities are going to step forward and embrace that person when they're injured, or their families when they make the ultimate sacrifice and are no longer there to help their families, but also as a state, we should make sure they have a minimum, the health insurance they had the day prior to being injured or making the ultimate sacrifice. Thank you, Mr. President. [LB444]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Senator Krist. [LB444]

SENATOR KRIST: Thank you, Mr. President. I had the distinct pleasure of meeting this gentleman, but I want to make it very clear, this bill is not about this gentleman. This bill is about something that Senator McDonnell just said and that is the faith that we have in our first responders to be there for us. As the mailman used to say, in all weather, nothing persuades me to stop delivering mail, not sleet, not snow, not danger. I'll step in the line of a bullet for you because that's what I'm here to do, to serve. You don't do bake sales to heal people. You don't have fundraisers to create the same kind of a work environment or safe environment for these families. Those are the nice things that communities will do. We need to stand behind the first responders and make sure that when they are taking that bullet or they do fall off that ladder because they've been blown off the side of it, or they are involved in a traffic accident trying to respond. We just lost somebody, as I understand, last Sunday...Sunday? The officer responding to try to help somebody gets into a nonposted closed highway, runs into a crane. The reality is, daddy is not coming home tonight, and he didn't lose his life doing anything else than being a public servant and responding to his call. Now, the technicalities of this bill, I think can be

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worked out very easily, the things that have been brought up, whether or not it is a volunteer who has or has not a program that he's paying into needs to be sorted out. I'll give you that. But Senator McDonnell is absolutely right. Be careful of the message you send. Be careful that you're backing away from our responsibility of saying, you were ready to lay down your life for me, I'm going to be there for you and your family, or just for your family in the case that something happens to you. In this particular case with this particular family, they could have given what they were doing and what his wife was doing, they could have afforded their cost share in their insurance. But they were terminated and they were terminated by a government entity that made the best decision for financially, for potentially their particular situation, with no regard at this point to the public servant who had put his life on the line. So once again, I would ask, please be careful of the message that we send and let's make sure that we have satisfied our own technical curiosities and taken care of those things that need to be amplified and/or restated so that there is no ambiguity. But let's make sure that we are taking care of those public servants. I thank Senator Walz for bringing this. I think AM467 clarifies it and makes it better. I'm voting green on AM467 and LB444. Thank you. [LB444]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Blood. [LB444]

SENATOR BLOOD: Thank you, Mr. President, fellow senators, friends all. I rise today in support of both the amendment and the bill, sharing the same concerns that Senator Crawford shared. The question I have in reference to the amendment is that you look at communities like Kearney that have paid volunteer fire departments. I just think we need to have clarification on who the amendment actually applies to in reference to volunteers, especially those that are paid volunteers, that are ultimately employees. So, with that...with that...yeah, more quandary. With that said, I rise today because for those of you that know of my record of public service, you know that my number one priority, next to the citizens of my community, have always been my first responders. First responders, much like our military, are heroes. They choose every day to go out and protect our best interest, protect our homes, protect our families, protect our property. And yes, they choose to do that, but one of the things that we never consider is that in addition to potentially being shot, to being injured in a fire, they have long-term health effects that pertain to the poisons that they're exposed to, that pertain to the environment they're exposed to, from PTSD to cancer. The list is long of things that make these people heroes. It's not just the job they do. It's knowing the history of what's to come and then building their lives on that history and saying, yes, I know that ultimately when I'm exposed to these chemicals, chances are really good that I'm going to get cancer decades before others in my community, and possibly die from it. I know that when I go to a shooting and I find a child that has passed, that ultimately I might have PTSD, but I know ultimately I am protecting the people in my community. These people are heroes. And you notice I keep saying people? What I worry about when we talk about insurance is we talk about money. In municipalities, guess what are the first two budgets, and Senator McDonnell will probably shake his head yes, as where I'm sure Senator Wishart, guess where



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some of the biggest cuts are always made. Police and fire, because they're the most notable. Right? Doesn't make it right, but I guarantee that a lot of municipalities in Nebraska right now are short how many law enforcement and how many fire staff they truly need: I know that Bellevue is--third largest city in Nebraska. That's something you should be concerned about. So with that said, I want you to think about the people, think about the heroes. Don't think about the ultimate cost because they are paying the ultimate price every single day. And it's really a small amount to ask should someone be shot and injured and have to be off of work, should somebody be injured in a fire and have to be off work. Think about the burden that this puts on their families. Think about the burden that puts on those individuals should they have to worry about how to pay their medical bills when they were only doing their jobs. And unfortunately, the chatter on the floor about the article that was handed out, that doesn't pertain to what this bill is about. People. Are we here to support our first responders or not? We are always here to support our military and well we should be. We should always be here to support our first responders. Please support this bill. Don't look at the money. Look at the people. [LB444]

PRESIDENT FOLEY: Thank you, Senator Blood. (Visitors introduced.) Mr. Clerk. [LB444]

CLERK: Mr. President, Senator Ebke would move to amend the committee amendments with FA50. (Legislative Journal page 838.) [LB444]

PRESIDENT FOLEY: Senator Ebke, you're recognized to open on FA50. [LB444]

SENATOR EBKE: Thank you, Mr. President. FA50 makes a very simple change to the committee amendment. It strikes the word "volunteer" so that we get some level of clarity at least with that amendment. Thank you. [LB444]

PRESIDENT FOLEY: Thank you, Senator Ebke. Debate continues on LB444. Senator Hansen. [LB444]

SENATOR HANSEN: Thank you, Mr. President. Colleagues, I rise in support of LB444 and the Judiciary Committee amendment and I will double-check on FA50, but if that's an effort for clarity, I imagine that's a good idea. I am very thankful of Senator Walz for bringing this issue, and bringing this issue before us. Was very happy to be able to support it coming out of the Judiciary Committee. I think some of the points that have been raised today are important and very good. Obviously this isn't a bill to fix one situation. It's something that often happens in the state of Nebraska where a tragedy happens and frankly gets picked up by the news media that illustrates a flaw in our statutes, it illustrates a flaw in the public policy of the state of Nebraska. Obviously we cannot envision all circumstances in all situations, so occasionally something happens and we as a body can look at it and go, that's not what we want, that's not what we

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intended. So fundamentally though, I support this bill because when we talk about supporting our first responders, when we talk about supporting the working men and women of our communities that go out and put their lives on the line, when we talk about supporting blue, supporting red, all the things we can do, we need to view that over the continuum. We need to view that as supporting them with health insurance. We need to view that as supporting them when they're injured. We need to view that, as in other bills, protecting their pensions. When we say we're going to support law enforcement, when we say we support law enforcement, we say we support first responders, there are myriad ways to support them. And one of the easy ones, one of the simple ones is making sure they have access to healthcare and health insurance. I understand people have already raised some concerns with the fiscal cost. When we are asking people to put their lives on the line, to literally rush into burning buildings, to, in the case of the incident that got us all our attention, to serve high risk warrants to somebody who was correctly high risk and ambushed them at the house, the least we can do is say, hey, if you get injured doing your public duty to the citizens of your community, you're going to have health insurance while you recover. That seems to be a very minimum threshold that we as the state of Nebraska can offer those who put themselves in harm's way in order to protect us and I would urge all of my colleagues to support LB444. Thank you, Mr. President. [LB444]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Erdman. [LB444]

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. I rise in support of this amendment and bill. I appreciate Senator Ebke clarifying that on volunteers. Just a point of information, Mike lives in my district, Deputy Sheriff in Deuel County, was shot there going to attempt to arrest someone. It was a bad situation. The community has come together to help he and his family and I appreciate that. The county commissioners there have a difficult situation in that county. They're a very small county. They have a huge problem with marijuana coming from Colorado. At the end of the first six months of their new fiscal year, they've used up all their judicial funds prosecuting and holding people with marijuana. So the county is in a difficult position. They're up against their mill levy and they spend a lot of things for the state that they don't get reimbursed for. So they're between a rock and a hard place and they have to balance their budget as well. I hope Mike gets back to work soon, but the community has rallied around him. We appreciate what he does there and what he did and we hope he recovers and so I am in support of the amendments and LB444. Thank you. [LB444]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Friesen. [LB444]

SENATOR FRIESEN: Thank you, Mr. President. I do rise in support of FA50. I do support LB444, but I do not support AM467. I was a volunteer firefighter for 18 years. My wife was an EMT for a number of years. We did it...we don't think of ourselves as heroes. We did it to give

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back to the community. We had the time. We were located in a good location to serve and we did it as a service, I guess you might say, back to the community. Some people are involved in the church. Some are involved in their school activities. We chose that. We didn't do it to receive any benefits. Our department did have a life insurance policy. I think it was \$10,000, if I remember right, if you were killed. But otherwise, we were on Workman's Comp, though. If we did get injured on duty, Workman's Comp covered us to get us back to where you could work again. But as an individual, when you're not employed by a city or county, whether you're working for someone or you're self-employed, if I would have been injured on duty, Workman's Comp would have supposedly brought me back to where it was the best they could, but if I would have been permanently injured, I wouldn't have been able to provide my health insurance either. I wouldn't have been able to afford it because I'm self-employed. So at that point I'm in the same boat as somebody who is employed by a city or county and yet, now suddenly those have preference, those volunteers now suddenly...we were all kind of a united family, so to speak, but now you're starting to elevate some employees over others. We all thought of ourselves as volunteers doing community service back to the community. But when you now have somebody who is employed by the city, for instance, and wanted to do volunteer work, he wasn't forced to join the fire department, he should be on the same level playing field as the rest of the volunteers. And so I look at this with a little apprehension and then the bill states, AM467 talks about this is only covered during an assault? You're not covered if something happens going into the burning building? So I'm a little confused about where we're going with this, but...so I have some questions. And, you know, as far as LB444, if you're a paid EMT or a paid fireman or a paid policeman, yes, that's a whole different scene. I think, too, we should not take healthcare coverage away. And it shouldn't be based on economics. But when you're a volunteer, I look at things differently. People do it for a multitude of reasons. And yes, we should protect them as best we could. But I think the Workman's Comp comes in and covers the health needs if you're injured on duty and I think that covers you while you're...if it comes from an assault or something happening during the fire, I think Workman's Comp doesn't distinguish between that. I could be wrong, if somebody can clarify me on that, but those needs were covered. But as far as providing health insurance now, you've changed...I guess you might call that body that work together, that unified group, you have now changed the status of that. I question whether that's needed. Thank you, Mr. President. [LB444]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Wishart. [LB444]

SENATOR WISHART: Thank you, Mr. President. I rise in support of LB444 and AM467 and FA50. My husband has served in the Lincoln Police Force. He served for five years. In fact, he started field training, I think the day after we got married. And for the longest time for years, people would ask me, are you worried about him going off to work? And I would say no. I've grown up in Lincoln. This is a very safe community to me. I love this community. And so I didn't worry. But last year everything changed. My husband was called to the scene of a murder of a

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young woman and his life was in jeopardy. And everything changed for me after that. This is an incredibly tough job, being a law enforcement officer, and it is critical that we support their healthcare needs. Not just healthcare needs for any physical ailment, but also mental healthcare needs. So I strongly support this bill. I'm very proud of Senator Walz for bringing this legislation. And with that, I will yield the rest of my time to Senator McDonnell. [LB444]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator McDonnell, three and a half minutes. [LB444]

SENATOR McDONNELL: Thank you, Mr. President. Thank you, Senator Wishart. Talking about some of the ideas with the volunteers and what they're doing and looking at it as a professional firefighter, paid firefighter, and what Senator Albrecht mentioned earlier about her father, who I knew very well and he dedicated 35 years of his life to serving the citizens of Papillion, it is about that, it is about the service. But as we talked about earlier and what Senator Krist brought up, it's also about making sure those first responders know that we do have their back, that if they are injured that we are going to be there for their families, and as the communities do reach out. And the communities have done so much in different situations where we've had firefighters make the ultimate sacrifice and been severely injured, that the communities what they did and the calls and the cards and the fundraisers, it touches your heart. It makes it all worth what you're doing every day going to work and trying to make a difference and trying to mitigate an emergency medical situation, a fire, a natural disaster on the fire side and the police side on trying to keep the peace. And so right now looking at what Senator Walz is trying to do, and again, as has been mentioned before, no law is perfect. If we can make improvements on this, and I believe FA50 and AM467 is doing that, but I think we also have to keep our eye on the ball and that is the people out there that are again watching us today and looking at us as to lead the state and make sure that those people that are out there putting their lives on the line and going into dangerous situations for us when most of us are sleeping at night and not knowing what's going on in our communities, for those people that are risking their lives, we got to make sure that they know that we are here for them, that we're trying to be fair to them. And remember, they're not asking for anything that they didn't already receive prior to an injury. They're asking to continue to have their health insurance paid after that injury. Exactly what they were receiving before, nothing more. Nothing more. Not a dollar more. Just make sure that they remain whole with their health insurance that not only covers them, but covers their families. Thank you, Mr. President. [LB444]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Senator Walz. [LB444]

SENATOR WALZ: Thank you, Mr. President. First of all, I want to address Senator Albrecht's comment. You know, there really are a lot of cases. This is not an isolated incident that

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happened. There are a lot of cases where this happens, especially in Omaha and Lincoln, but Omaha and Lincoln are already covered under a different provision through a collective bargaining agreement. So there are many more cases. Mr. Hutchinson drove a long way. He cannot...he doesn't do well in a car. But he came a very long way to come and testify and not just for himself, but also for all first responders, you know, to make sure that he could do what he can to help set legislation and protect them. The other thing I wanted to address real quick is that Workers' Compensation does pay for his medical expenses from the incident. But if he was injured in a car accident on his way, or his family members were injured in a car accident on his way to physical therapy, he would not have been covered. So just wanted to clarify that. Thank you, Mr. President. [LB444]

PRESIDENT FOLEY: Thank you, Senator Walz. Senator Craighead. [LB444]

SENATOR CRAIGHEAD: Thank you, Mr. President. I stand for a point of personal privilege. [LB444]

PRESIDENT FOLEY: Please proceed. [LB444]

SENATOR CRAIGHEAD: Thank you. I believe this is appropriate during this discussion. Today is Vietnam Veterans Day. I lost my husband, Mike Craighead, almost ten years ago to an Agent Orange related cancer attributed to his service in Vietnam. And I hope if you see one today that you will please take time to thank a Vietnam Veteran for their service. [LB444]

PRESIDENT FOLEY: Thank you, Senator Craighead. Senator Albrecht. [LB444]

SENATOR ALBRECHT: Thank you, President Foley. The reason...you know, I don't want anybody to think for one minute that I am not all in with our first responders. But my other point is, if the big cities have other ways of taking care of their firefighters and police officers, that smaller counties don't have...is Senator Erdman in the room? Obviously not. Okay. But my question would be to him is, if this bill goes through, whether it's for one year or three months, can some of these smaller communities afford to pay for that insurance? Again, as Senator McDonnell said, most all times the brother and sisterhood of these firefighters and police officers do have to come together because we would be mandating a city or a county to take care of their people. And if they can't afford to do that, then again, it's a mandate that I just can't support for that reason. And if it's just for a year, if it's just for a year, I would think with some of the fundraisers that people do have, that they would be able to take care of that. It's the counties that are mandated by their insurance companies that they can't. But knowing that I've sat on a city council and a county board before, I'm quite certain there are funds somewhere that can be used for certain things. I've watched in larger cities where people give up their vacation time for

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people or they give up their sick time so people don't lose that kind of thing. So I would just hope for the record, I am all in on first responders. I am all in on police and fire, but I cannot support mandating a smaller community to be told by the state that we need to do these kind of things. Thank you. [LB444]

PRESIDENT FOLEY: Thank you, Senator Albrecht. Senator Quick. [LB444]

SENATOR QUICK: Thank you, Mr. President. I rise in support of LB444 and all of the amendments. And I'd just like to say, I just wonder, we have to remember that it's not just the firefighter or the police officers, but their families that are affected and with the health insurance, you know, of course, Worker's Comp takes care of the employee, but then you have the family that's still there and if the health insurance is discontinued or stopped, then the family has no way, or that officer has no way of taking care of his family. So I'd just like to remind everyone that it's not just about the first responder, it's also about their families and I would ask everybody to support this. Thank you. [LB444]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Walz. [LB444]

SENATOR WALZ: I just wanted to again comment to Senator Albrecht because to me it doesn't sound like she is all in for her first responders. If you truly were concerned about the first responders, the police officers, I think that you would be in favor of this bill. Yeah, it does ask the counties to pay for the health insurance plans. It's not something that happens very often, thank goodness, in small communities. Again, Lincoln and Omaha already have provisions for health insurance for first responders. And I believe that responders in small communities deserve the benefits just like anybody else in a bigger city. Thank you. [LB444]

PRESIDENT FOLEY: Thank you, Senator Walz. Senator Ebke, you're recognized to close on FA50. Senator Ebke. She waives closing. The question for the body is the adoption of FA50. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please, Mr. Clerk. [LB444]

CLERK: 28 ayes, 3 nays on adoption of the amendment to the committee amendments. [LB444]

PRESIDENT FOLEY: FA50 is adopted. Returning now to debate on LB444, the committee amendment. Senator Ebke, you're recognized to close on the committee amendments. She waives closing. The question for the body is the adoption of AM467. All those in favor vote aye; those opposed vote nay. Have you all voted? Record, please, Mr. Clerk. [LB444]

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CLERK: 28 ayes, 5 nays, Mr. President, on the adoption of committee amendments. [LB444]

PRESIDENT FOLEY: The committee amendments are adopted. Returning to debate on LB444. Senator Walz, you're recognized to close on the advance of LB444. [LB444]

SENATOR WALZ: Thank you, Mr. President. Again, I bring this bill forward on behalf of the Fraternal Order of Police. It would require that no city or county that already offers individual or a family health insurance to law enforcement officers can cancel that policy if an officer suffers an injury as a result of assault. This was a very emotional and compelling testimony from Mr. Hutchinson as he came here to Lincoln and we've had a lot of good testimony today from other senators. I truly feel that it's very important that we are supporting and doing what we can for people who are out there protecting us every day. And with that, I close and I urge everyone to please vote green on this bill. Thank you. [LB444]

PRESIDENT FOLEY: Thank you, Senator Walz. Members, the question for the body is the advance of LB444 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please, Mr. Clerk. [LB444]

CLERK: 33 ayes, 4 nays, Mr. President, on the advancement of LB444. [LB444]

PRESIDENT FOLEY: LB444 advances. Items for the record, Mr. Clerk. [LB444]

CLERK: Mr. President, I have no items. I do have a priority motion. Speaker Scheer would move to recess the body until 1:30 p.m.

PRESIDENT FOLEY: Members, you've heard the motion to recess to 1:30. All those in favor say aye. Those opposed say nay. We are in recess.

RECESS

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call. Mr. Clerk, please record.

ASSISTANT CLERK: There is a quorum present, Mr. President.

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PRESIDENT FOLEY: Thank you, Mr. Clerk. Do you have any items for the record?

ASSISTANT CLERK: Mr. President, I do. Your Committee on Enrollment and Review reports LB339 and LB539 to Select File with amendments attached. (Legislative Journal pages 839-842.) [LB339 LB539]

PRESIDENT FOLEY: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda. Mr. Clerk.

ASSISTANT CLERK: Mr. President, the first bill this afternoon, LB72, introduced by Senator Schumacher. (Read title.) The bill was introduced on January 5 of this year, referred to the Banking, Commerce and Insurance Committee. That committee placed the bill on General File with no committee amendments. [LB72]

PRESIDENT FOLEY: Senator Schumacher, you're recognized to open on LB72. [LB72]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Isn't service in the Legislature such a great thing? Where can you have a more diverse intellectual experience? We've gone in the last 24 or so hours from talking about business incentives to criminal law and now we're going to talk a little bit about municipal finance and bonds and probably unions and retirements and all kinds of things. And in many respects, we're going to be asked to come up with an answer to a problem that has existed or at least known to exist for the last, well, almost since the Great Recession started in 2008 and has become more and more defined as a problem and something that states and municipalities need to deal with since then. And it's not one that's going to go away until it's properly addressed, and that is the problem of bond priority. Now, what is bond priority? Well, it basically boils down to who gets paid first? We all know how a mortgage works. You put a mortgage on your house and you promise to pay the banker, the mortgage payments with the interest on time. And we know that should you have a bad situation and go bankrupt, that the banker is going to get that house, even if you have a big doctor bill or even if you have another bill that comes up because you were sued and lost. The banker is secured. The bank comes first and then your other creditors come. If you borrowed money on a car and the car is not worth what it is to pay off, well then, if there's any money left over in the house or your savings account, the folks that are owed money on the car get their payments. And we have a system of order in how debt gets paid and who comes first. And that's important because in who comes first means how much they're going to expect in interest or other compensation for taking the risk that there will be a problem and you will end up in bankruptcy court. This became an issue in the Great Recession as cities like Detroit suddenly found themselves in a deteriorating economic situation--and being an uncertain world, almost everyone is subject to that risk--and they couldn't pay their bills. And when they couldn't pay their bills



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and things looked really bad, they had a right under the law of their state to declare bankruptcy. And you go into the bankruptcy judge and say, judge, help. We got a problem. We can't pay our bills. We can't...nobody will borrow us...or loan us any money so that we can pay future bills or roll over the debt that we have. Help. And the judge takes up the obligation of trying to manage the situation through a trustee or whatnot to how do we keep the sewers unplugged and how do we keep the water running and what do we do when the bondholders come up and say, we have a bond payment due, and you have pensioners coming up and saying, you know, we'd kind of like to have our pension check and you don't have the money. And that's a local issue, but it's in a federal court. And the federal judge says, I don't know. We've got a certain stream of money coming in from taxes and other kind of income and these bondholders are general obligation bonds, meaning that the city at one point said to the bondholders, we promise our full faith and credit, all of our souls to the payment of these bonds. It's our full faith and credit that's on the line. And the judge says, well, shall I honor that promise now that we're in bankruptcy court? Undoubtedly, I would honor that promise...or the courts would honor that promise if it weren't in bankruptcy. So where do I look for guidance as to whether or not I say, look, we pay the necessary bills of keeping things going, the water and the lights turned on, but then the other revenue first goes to the bondholders. Where do I look for guidance? Is that what the state would want? And the rule that kind of emerged was this: federal judge not wanting to be all too creative said, I will look to state law. And I will try to determine from that what the state means should happen in this circumstance and I will apply the law rather than try to be creative and make up some law and make up a division of how the money works. And so the judge first looks to state law. In Nebraska, there's a couple of court cases particularly dealing with SIDs which suggest that a federal court in Nebraska that would be in that situation could find authority in saying, look, bondholders go first. But it is certainly far less than certain that that would be the case. A law would make it clear the bondholders go first. Bondholders could then feel comfortable and ask for lower interest rates. Unions in negotiating their pension packages would know where they stand and want more now rather than promises later. And so what LB72 does is says, look, what very well may be the law in Nebraska, now already we're going to officially as a Legislature declare to be the law. Full faith and credit means full faith and credit and the bondholders are to be paid out of that revenue stream basically after the lights are kept on. And that is LB72. It brings home in reality a situation that we have probably in our major city and I'm sure we're going to hear about that, who's got a great deal of debt, almost as much unfunded pension obligations which we're going to have to deal with and talk about some which may teach us a lesson as to what happens when you make promises that, well, we won't spend today or we'll cut today but that's because we'll be rich tomorrow and be able to take care of it. And so let's not worry about promising and borrowing from the future. It's a lesson for a different bill at a different time. But at any rate, if the wrong turn of events should happen, then we would face that question and this is an attempt to resolve it today. We've tried a couple of different approaches in the past to come to grips with this. One of the approaches was to have on any new bond it be clearly stated that, hey, this issue is unresolved, bondholders. We don't know for sure

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if you're 100 percent full faith and credit secured. And we're going to tell you up front, take that into account. And the city of Omaha did not like that idea. Did not want to make that declaration clearly in big print on the front of the bond offering. They were afraid their interest rates would go up. Okay, fine. They said, don't worry about it, we won't go bankrupt. Never happen. Okay, fine. We'll take away the authority of cities of the primary and metropolitan class to go bankrupt. Oh, no. We don't want that, because we might have to go bankrupt some day. So it's easy to resolve these questions today when it's not a crisis, not in the future. So everybody knows where they're at when in the context of their... [LB72]

PRESIDENT FOLEY: One minute. [LB72]

SENATOR SCHUMACHER: ...setting their bond rates, in the context of how they negotiate union contracts. Knowing where you're at is always better than being lost in the jungle. And that is the debate we're going to have here and we may actually at some point get creative and try to figure out how we solve this problem. But LB72 takes the simplest measure of solving the problem and says, full faith and credit means full faith and credit. Bondholders come first in dividing how you handle past debt. And that's LB72. I look forward to a stimulating and interesting debate. And we should have one. This is a real important issue for our time. Thank you. [LB72]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Mr. Clerk, I understand there is an amendment at the desk. [LB72]

ASSISTANT CLERK: Mr. President, Senator Hansen will offer AM787. (Legislative Journal page 842.) [LB72]

PRESIDENT FOLEY: Senator Hansen, you're recognized to open on AM787. [LB72]

SENATOR HANSEN: Thank you, Mr. President. Good afternoon, colleagues. I'll lay down some of my perspectives on this bill and the history and then get to the actual text of this amendment. I think Senator Schumacher did a very good job of explaining what he's attempting to do. One thing that I do want to share and make clear is that LB72, as he referenced, there's been several attempts down the line. During my tenure, two years ago in 2015, there was a bill called the LB67 also by Senator Schumacher dealing with many of these same issues. And I had some concerns with that bill as did some of my other colleagues. And we worked and worked to try and find some sort of compromise that could appease all stakeholders and we were not successful in that. I greatly appreciate Senator Schumacher and his effort to foster discussion, talk about how these issues impact the state, both in LB67 and on LB72. I will say I spent most of...a good chunk of the lunch hour speaking to Senator Schumacher about possible ideas and possible amendments.

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That being said, I had AM787 ready as a placeholder amendment. I maybe pulled a bit of a Chambers here and put up an amendment to guarantee I'd be the first to speak after him, but that's what I decided to do. What AM787 would do is strike the contents of the bill and say in the case in certain new language, in quote, in the case of a bankruptcy, the bankruptcy judge shall have discretion to the extent allowable under law to determine creditor priority. And that will be the only new language if my amendment is adopted. I understand the difficulties and I understand the uncertainties related to municipal bankruptcies, government unit, political subdivision bankruptcies. And I do admit that certainly it's an unclear area of law. I've spent more time on this bill talking with various different bond counsels representing different cities than I necessarily expected to when I first got elected to the Legislature. And I think bond counsels are like any other attorneys, you get five of them in a room, you get eight opinions. That being said, fundamentally what we have here are a couple different stakeholder groups. And we're being asked by Senator Schumacher in LB72 to explicitly put into law that among all of these different stakeholder groups, in the event of a government bankruptcy, all of the different stakeholder groups, we pick investors, we pick the bondholders, and we put them first. Under this bill, bondholders would get first priority in a statutory lien. They would get that above current city services to the extent that there's some exemptions for essential city services. And I think that's an important discussion we need to have and clarify what essential city services are. For example, how many fire trucks are essential to the city of Omaha? How many snowplows are essential to Dodge County? These are things we're going to have to worry and think about and make sure we get down. So we're asking bondholders--so people who are risking their money to make a profit on bonds as an investment--we're going to give them, guarantee their money above city services. Further, we're going to guarantee their money above city employees. I know Senator Schumacher in discussions...and I missed whether or not he mentioned in the introduction, a lot of this worry on bankruptcy has to deal with unfunded pension obligations. So, obviously, there's kind of a worrisome incentive there that if the pension obligations are what might be driving municipalities to look at bankruptcy and they can be discharged in bankruptcy, I worry that by not protecting them in some way, there's actually an incentive to drive groups into bankruptcy by not funding their pension. Once they've reached a point of no return, they might as well steer into the skid, save their money, and look for the bankruptcy court to save them. And then finally, the last group that we need to look out for is the taxpayer. There are various provisions of LB72, and I've been trying to figure out which ones are existing law, which ones are current law. But there are provisions in LB72, whether or not they're new language or whether or not they're existing law, that would require a bankruptcy judge to go to a taxing authority and tell them what to do with taxes. We could have a sense where a federal judge is coming in and saying, in order to pay off these investors, in order to pay off these mutual funds based in New York who are investing for people internationally, the little bit of interest on their loans, in order to pay them off, the judge is going to have the opportunity to tell a local political subdivision what to do with their taxes. So here we have to balance the interests of taxpayers, of just basic city services and municipal services, because--I keep saying cities, and cities are often

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the example that are used--but this applies to all political subdivisions: counties, cities, and whatnot. They have, obviously, relative different levels of bonding and bonding authority and bond debt so the impacts would vary, but it does apply to them all, including things like independent agencies of the state of Nebraska, which are...I'm curious more as to what those will be. So colleagues, I know we're going to have time on this and I know we're going to need to look at this issue very carefully. But we're going to ask ourselves, when the worst happens, the worst financial situation that happens to a political subdivision in the state when, heaven forbid, a county or city or some other agency of the state of Nebraska goes bankrupt and they're in front of a bankruptcy court and we have all our stakeholders, we have our taxpayers, we have our citizens, we have our city services, we have the city itself, and we have these investors, we have these bondholders who might not even live in the state of Nebraska who are in it for a profit, who is going to win? Who do we want to give a significant leg up to in bankruptcy court? And in my mind, this is a Main Street versus Wall Street issue. And certainly I, just as a matter of principle, cannot prioritize these investors, these bank bondholders over just the average "Joe Citizen" taxpayers of my district. So that's where I'm looking on this bill. I will give Senator Schumacher credit for being very open to discussion. And I think he's maybe even looking forward to having a very robust discussion on the floor this afternoon onto how we best do the finances of our political subdivisions. And I think that's very important work of the state of Nebraska. But, fundamentally, LB72 as written is not something I could support and that is why I've offered AM787. Thank you, Mr. President. [LB72]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Crawford to be followed by the following senators: Senator Hansen, McCollister, Friesen, Kolterman, Wishart, Williams and McDonnell. Senator Crawford, you're recognized. [LB72]

SENATOR CRAWFORD: Thank you, Mr. President, and good afternoon, colleagues. And welcome to what I hope is a lively debate. And I do first off just want to make sure that everyone realizes that this is a critically important bill for the future of our state and the future of all of our subdivisions. The bill references multiple subdivisions and I think you might just think with the kind of boring title of the bill and no opposition...no committee votes against the bill that it's a simple, slam dunk kind of bill. But there are fundamental issues that are raised in this bill about our state role and about the financial future of our governmental subdivisions and the role of the taxpayer, the role of our employees of these subdivisions, the roll of the services that all of those subdivisions provide in comparison to the role of the bondholders. And it's very important. And I want you to make sure that you read the committee statement and see what this bill does and see who came in and supported the bill and who came in in opposition to the bill and get a feel for what this means. And I think that's an important part of our conversation this afternoon. Fundamentally, what LB72 does is it says, we as a state are declaring that we want bondholders to have first priority. We are putting them first in line. If there's a bankruptcy situation, they get theirs first. And that's what we're saying with this bill. And I think it's good that Senator

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Hansen's amendment, AM787, is up first in this conversation as well, because Senator Hansen's amendment is basically going back to what we have more as a status quo, which is the judge decides. Right? And so the question is, do we want to have the state determine if there is a certain entity that's first in line and clarify in statute that that entity is first in line. And as LB72 is written now, that entity are the investors. The investors are first in line. So colleagues, if you are a senator and you have concerns about the state getting involved in the free markets, this I think is an important bill for you to examine and be engaged in this debate, because we as a state are deciding that the bondholders are first if there is a bankruptcy situation. Now, currently it's the case that if you are an investor, you are accepting a risk and the interest rates reflect that risk. The bond ratings of the municipalities or of our other subdivisions are calculating that risk. Your role as an investor in our government subdivisions is to decide if that's an appropriate risk and you gain an interest based on that risk. And so, colleagues, it seems to me if an investor is getting tax-free investment in our subdivisions and is accepting that risk, then we should not as a state say that we are going to minimize that risk by making sure that if there is a bankruptcy, they automatically get first in line and they get theirs first before we consider the other people who the subdivision has obligations to. That includes people with pensions, but also includes the taxpayer. What risk are we going to put on the taxpayer? And again, with LB72, what risk are we willing to put on the taxpayer for the sake of protecting bond investors? Isn't it the case that if you invest in a bond that you are accepting the risk and that's why we're giving you interest? [LB72]

PRESIDENT FOLEY: One minute. [LB72]

SENATOR CRAWFORD: Thank you. And we recognize that this is an important part of our investment and so we provide it tax free as well. Colleagues, notice that this is not something that the cities were coming to us saying, we're having trouble getting people to invest in our municipalities. None of the other subdivisions showed up asking for this. This is not something that the political subdivisions see as a problem. They're not having problems getting people to invest in these bonds at the existing risk, at the existing interest rates. And so I believe that it is not an issue that we need to resolve this afternoon in terms of...and especially, we don't want to resolve it in terms of putting the bondholders who are accepting a risk at interest to put them first in line should there be financial problems in a political subdivision. Thank you, Mr. President. [LB72]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator McCollister. [LB72]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor; and good afternoon, colleagues. As a grandson of a banker, I'm in support of LB72 and opposed to AM787. During my 35 years in business at McCollister and Company, agreements and contracts were a big thing

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with our business. We would make agreements to purchase a tank car of base oil and we had an agreement with the oil company that made explicit what our obligations were and what their obligations were. The terms are laid out in contracts and you have to follow it. And I'd say that contract law, as I understand it, drives business and those terms are explicit. So when a bond is sold with the creditors first in line in the event of a default, the bondholder receives assets first. That's the way it works and it's written that way in the bond agreement and that's how the bonds are sold. So that's how it's done. A deal is a deal and you can't change the rules after the game has started. So with that, I relinquish the balance of my time to Senator Schumacher, if he wants it. [LB72]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Schumacher, 3:30. [LB72]

SENATOR SCHUMACHER: Thank you, Senator McCollister. Mr. President, members of the body, just to keep kind of a little flow in the debate here, and hopefully it will be a robust debate and begin to teach us lessons all along of the dangers of putting off into the future what you could pay for today and the instability that might happen in a world where no future is guaranteed to anyone or any decision maker. So the best we can do is try to structure our laws to accommodate that situation. Senator Hansen's amendment, AM787, is nonfunctional. What it basically says is hey, judge, do whatever you want. The Legislature has advocated, whatever you say is fine. If you're the son of a banker and you want to declare the bankers to be first and then the unsecured other creditors and put the unions on the bottom of the pile, go ahead, do it. Or if you're the son of a union worker or daughter of a union worker and you want to do it the opposite way, fine with us. We don't care. That's what AM787 does. One thing is for certain in the world of finance: the more predictable an outcome, the more secure the investor is, the less risky the investment, the less interest they're willing to take. And that inures to the benefit of everyone knowing where they're at and low interest rates. This declaration of instability in AM787 would not be productive for anyone and would not let anyone know where they are at or able to adjust their conduct, interest rate, union negotiations, whatnot in response. Right now, a bankruptcy judge looking at a bankrupt city can say, look at, one of the assets you have, dear city, is your taxing authority. And it appears to me, you're not using enough of it. You're not up against your taxing authority limits. You can do it. [LB72]

PRESIDENT FOLEY: One minute. [LB72]

SENATOR SCHUMACHER: This bill does not change that authority. We do not restrict the federal court in ordering taxing adjustments and this is not Main Street versus Wall Street. Who are the bondholders? It's your pension funds. It's your IRAs and your 401(k)s. People who put their pension money into an investment relying that it had the full faith and credit of the city or municipality they're investing in. This has nothing to do with Wall Street. This has to do with

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debt. And it's always easier to deal with debt when there isn't a crisis and you can look at the situation coolly and calmly. Thank you. [LB72]

SENATOR FOLEY: Thank you, Senator Schumacher. (Visitors introduced.) Senator Friesen. [LB72]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Everyone who lives in a small city or village or county who is fiscally responsible, whose city council does a good job of managing their debt and making decisions, this is a really important bill. This will lower the cost of you doing a bond. When I was involved with the city, we were doing a major water project and it was a citywide project that benefited all citizens. And we talked a lot about it with the bond people and we could have done a revenue bond, it would have been based on our water revenues. But if we were willing to make it a general obligation bond, we'd get a cheaper rate, because we were pledging the full faith and credit of the city and all of its assets to pay off that bond. With revenue, that same assurance wasn't there. If we would have been unwilling to raise our rates, eventually gone into bankruptcy because of it, there was more risk. So any time you create certainty, which this does, currently in law we do not have certainty. We're not sure when we buy those city obligations, those city bonds, are they reliable or are they not? Is a judge going to declare that somebody else is first in line or not? To me, this sets in law and describes how it's done and bonds will be traded at that price. If we set that certainty in the market, a general obligation bond will continue to be the cheapest form of loan servicing for a city or municipality that needs to borrow money to get a big project done. If they want to do a revenue bond, do a revenue bond. But a general obligation bond should mean that the full obligation of that city as a taxing authority or a revenue generator will go to pay off that bond and the bondholder should be at the top of the list. There's a lot of retired people who invest in municipal bonds and I've talked to several of them and they fully feel that they're fully protected and that no bankruptcy can take that money from them, they are first in line. They're being misled currently, because they're not assured that. If a bankruptcy judge can suddenly take that money and divvy it up in a different way, you will not get paid. And therefore the interest rates that they were currently getting is not a fair interest rate anymore, there was more risk than there was perceived. And so anytime that you lock in that ability to repay and make it clear; now if we choose to go otherwise, then we better make sure that we make it clear that a bondholder is not protected, your bond prices will go up. And we're not just protecting Wall Street, we're protecting anybody who's willing to invest in that municipality. There's a lot of people who want a very safe investment. They don't want to lose revenue. They don't want to lose on their capital investment. They're willing to take a low interest rate because it's safe. And what we have done is made it kind of ambiguous, maybe it's safe, maybe it's not. A certain municipality has overspent, it hasn't funded their obligation and suddenly there's bankruptcy in the future and suddenly those bonds are not as safe as what they thought. So I look at this from any entity which has done a good job of funding all of their resources that need to be funded and have a good credit rating, this just sets in place that those

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bondholders will come first. It will lower the cost of selling bonds and allow those cities to offer a better service to the taxpayer again. [LB72]

PRESIDENT FOLEY: One minute. [LB72]

SENATOR FRIESEN: And it's not Wall Street versus anyone. When I go out to borrow money, if I can pledge enough securities or ability to pay, I get a lower rate than somebody else. There's less risk. That's what we're talking about here. We're going to put more risk on that bondholder. The price will go up. The cost to the taxpayer goes up. We have lost that certainty. So this is a very important bill and it needs a lot of discussion. Thank you, Mr. Lieutenant Governor. [LB72]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Kolterman. Senator Kolterman, you're recognized. [LB72]

SENATOR KOLTERMAN: Thank you, Mr. President. Colleagues, I rise in support of LB72 and opposed to AM787. I want to talk a little bit about who owns general obligation bonds. According to the statistics that I've been provided...and I will tell you that they're from 2012 but they're still...I would assume that they're fairly close yet. Everybody thinks this is a banking bill. Banks only own 9 percent of these general obligation bonds. Insurance companies own about 12 percent. Other is a small portion. Seventy-five percent of this is owned by mutual fund companies and individuals, and that breakdown is 25 percent mutual funds and 50 percent individuals. When people buy these general obligation bonds, they're buying them for the guarantees. They know that...and the people in Nebraska that are buying them are looking for the tax breaks. That's really the only reason they're sold. You get a good return, but you have to be in the right tax bracket to make it work. But my biggest concern, really, is about the pension aspect of this. You know, we've done a lot of work this past year on trying to figure out how we can keep our pensions solid, keep them strong financially. And when you have a situation where you've got a pension plan that is only 51 percent funded, and you're on the hook as a municipality for that much debt, you should be concerned. But the people that ought to be concerned are the people that are in the plans. I don't think they understand the liability that's hanging out there that if a plan does go broke, they run the risk that they might not get paid out. Now the state of Nebraska, our plans are all in great shape. So if you work for the state, and we're 92 percent funded, there's very little exposure for those folks, and most of our plans are at that level. And really in our cash balance plans, that's the state and the county plans, they're adequately funded. We don't have any problems there. But when you start looking at Lincoln and Omaha's plans, there's a reason they're concerned about that. Now I will tell you, I think it is kind of odd that the city of Omaha comes out in opposition against our bill that we have and we're holding in committee from the perspective of I don't know how they're going to dig themselves out. And we're trying to show them a way that we can help dig themselves out and this bill



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would help that. The bond ratings are important. This bill protects the bondholders. So if you're 92 percent funded, you don't have a lot to worry about. If you're 50 percent funded, you got a lot to worry about. And so we need to get behind this LB72 and support Senator Schumacher and what he's trying to do here, because all he's trying to do is protect the people that are in pension plans and the people that have invested their hard-earned income individually and mutual fund shareholders so that they buy an investment, they know they're going to get protected. [LB72]

PRESIDENT FOLEY: One minute. [LB72]

SENATOR KOLTERMAN: So I would encourage you to consider strongly supporting LB72. It goes a long ways towards what needs to happen to strengthen the plans that are out there that are in good shape and it does cause concern for those of you that are in those plans that aren't financed. And for people to tell me, well, cities aren't going to go broke, you know, it doesn't take long. Look at Beatrice. They're sitting here looking at how are we going to pay this \$28 million back? They could declare bankruptcy; that's an easy out. You got the Ralston Arena that's a big drag on people. That's another potential. And we're seeing it all over the country where cities are going broke. So to think it can't happen, it could happen here at home just as easy as it has in San Diego and some of the other states around...cities around the country. [LB72]

PRESIDENT FOLEY: Time, Senator. [LB72]

SENATOR KOLTERMAN: Thank you. [LB72]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Wishart. [LB72]

SENATOR WISHART: Thank you, Mr. President. I rise with a lot of questions about LB72. Senator Schumacher, would you be willing to yield to some questions? [LB72]

PRESIDENT FOLEY: Senator Schumacher, would you yield? [LB72]

SENATOR SCHUMACHER: Yes, I will. [LB72]

SENATOR WISHART: Okay. So the first question I have is, can you give me some examples of why a city would fall into bankruptcy? [LB72]

SENATOR SCHUMACHER: Oh, gee, I think that the number one reason right now is a situation where you have an inability to meet your pension obligations. That might be one. Another one is

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some calamity. Another one, of simply borrowing too much money. And one of the ways that any debtor, including our federal government, manages to maintain big debt is when a bond comes due you refinance it. And then you pay, when you refinance it, the going rate of interest. Well, we've kind of got ourselves into a bit of a trap over the last 10, 15 years because the monetary policy at the Fed pushing interest rates really low, which enabled cities to borrow cheap and refinance cheap. And so the Federal Reserve kind of helped things out because you could keep refinancing that debt and sometimes actually at a cheaper rate than what you had originally been paid on. Now if you have a shift in interest rates either because of monetary policy at the national level or because you've done something which all of a sudden sends a panic through you're bond purchasers or your other creditors that would force your risk higher and your cost higher, you suddenly become a deteriorating situation. There are other reasons why you might declare bankruptcy more macro in nature and that is, we might hit a recession. Right now, look at what happened to the state. We were just flying high and we were worried about how we were going to, once we met our cash reserve of \$700-and-some-odd million dollars, how we were going to be able to pay off some of our obligations in pension, or in prison and mental health and start declaring tax breaks either in the form of property taxes or income taxes. Well, really,...and no one yet can really point to what happened, but suddenly, we're looking at \$900 million shortfall. We have to slash the budget, push expenses into the future, do dances around taxes and budgetary gimmicks just to float the boat. Now imagine if you were an investor in the state government who certainly has more stability than the city government and you got hit with that. My goodness, if we had bonds and been selling that, where would our interest rate suddenly have gone to? We're fortunate we don't have any debt and we've been disciplined by the constitution but where would that...our interest rates would be...investors would say, well, what's going on in Nebraska? Something has gone bad from being okay to being terrible really quick. Cities can face that same risk, only with a higher degree of volatility. [LB72]

SENATOR WISHART: So a follow-up question would be, what is the alternative for a city filing for bankruptcy? And have we existed as a state before where municipalities...that was not an option is to file for bankruptcy? And what did cities do then? They raised revenues through raising taxes? [LB72]

SENATOR SCHUMACHER: Well, ultimately, if it wasn't an option and you had nowhere to turn and you were a city too big to fail in the state, where do you suppose you'd show up at? You'd show up at the doorstep of the State Capitol and say, you know, you got to bail me out. I can't pay my bills... [LB72]

PRESIDENT FOLEY: One minute. [LB72]

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SENATOR SCHUMACHER: ...because you passed a rule saying I couldn't declare bankruptcy, I guess you're going to have to bail me out or we're going to have people just leaving hand over fist because the toilets won't flush. So that's what you would do. You would head off and hope that you're too big to fail, got your mercy at the expense of the state taxpayer. [LB72]

SENATOR WISHART: Okay. Thank you. I have a lot more follow-up questions that I will ask. I'll turn my light on and ask as a follow-up. Thank you. [LB72]

PRESIDENT FOLEY: Thank you, Senator Wishart and Senator Schumacher. Senator Williams, you're recognized. [LB72]

SENATOR WILLIAMS: Thank you, Mr. President, and good afternoon, colleagues. Probably think it's strange that a banker would stand up and talk on what's been labeled as a banker bill, but Senator Kolterman already pointed out how, clearly, this is not a banker bill, although there may be banks that care a great deal about this bill. Again, as Senator Kolterman mentioned, only 9 percent of the bonds that are in existence today, these type of bonds are actually owned by banks, and 75 percent of them are owned by, again, the mutual funds and individuals. I do appreciate sincerely Senator Hansen pointing out the different stakeholders that are involved with this issue. And Senator Friesen and Senator Schumacher have also talked about those things and I want to talk about it just briefly also, because as Senator Hansen mentioned, we certainly have the city. We've got the employees that would work for the city. We've got the bondholders. And ultimately, we have the taxpayers. What I think we have to think about in this is what the differences are and what the role of the bondholder is versus the city, the employee, and the taxpayer. The city, of course, only needs the bondholders when they need to borrow money. And they borrow that money to do projects for their community, do streets, do sewer improvements, do water. You know, we oftentimes call these people investors, but I prefer to call them lenders, because they're only there at the request of the city to come in and help the city by loaning them money and in exchange for that they take a security interest. I will use that term loosely in this case, because it's a bond, but that is the security for making this promise to pay...to loan the money and then the promise of the city to return that money. The employees who are clearly looked at--and I would agree with this as innocent parties in this--are certainly the employees of the city. Whenever you're an employee, you take risk based on what your employer does. That if the employer makes decisions that are prudent and you have a great job, things tend to work out well. If the employer manages their business in a way that causes financial difficulty, oftentimes the employees will suffer from that. And that could be the case when, in this case, the management only has funded their pension liability at 51 percent. You know, employees at our business have the assurance that their retirement is there because it's a cash-funded retirement, a retirement that they have the choice of making the investments with. And that's part of the decision of where you work and why you work there. It's interesting that if you do not have a bankruptcy situation occur, this bill helps every community because it creates the certainty that's

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been talked about and thereby secures the fact that these rates on general obligation bonds on a tax-free basis will be some of the best if not the best rates available. [LB72]

PRESIDENT FOLEY: One minute. [LB72]

SENATOR WILLIAMS: On the other side, if you do have a bankruptcy, it makes sense to me that the cities would want to again know where they are so they're secure in their ability to continue borrowing money to do necessary projects that they have facing them. I would disagree with the concept of again saying this is Main Street versus Wall Street. Again remember, 75 percent of these bonds are owned by mutual funds and individuals, not the large Wall Street firms that sometimes get blamed for everything in our economy. I would like to go back and will at a later time and talk about the other solutions to this situation that have been offered before that Senator Schumacher talked about and how every time we've tried to come up with a solution, in particular, our two largest... [LB72]

PRESIDENT FOLEY: Time, Senator. [LB72]

SENATOR WILLIAMS: Thank you, Mr. President. [LB72]

PRESIDENT FOLEY: Thank you, Senator Williams. Senator McDonnell. [LB72]

SENATOR McDONNELL: Thank you, Mr. President. A deal is a deal. That was mentioned earlier. If it's with the bondholders, if it's with the citizens, or if it's with the pensioners. So let's say you're a person that goes to work for a city and that city tells you, for being a police officer, a firefighter, or for repairing the roads or plowing the snow that if you give close to 20 percent of your pay, every pay check, in X number of years, 30 years, you'll be able to retire. You're not eligible for social security. You'll never see that as a police officer or a firefighter. But in 30 years, you'll be able to start your retirement life. Then because of no fault of your own, you're not part of the discussions, you're not part of the decision making, someone--possibly a mayor, a city council--makes a bad decision. Now you're in a situation where there's bankruptcy. Now there's been a bondholder out there for possibly a 30-year bond. You're 28 years into it. At that point, that person that gave 30 years of their life with dedicated service, we knock on their door and say, we're not going to be able to pay you your pension, even though you contributed for 30 years every paycheck because what we're going to do is we're going to go ahead and pay that bondholder that has been paid for 28 years, we're going to pay them for the next two years and what we're going to do is ask you to survive for that two more years till we take care of that bondholder. That's what this bill is doing. I believe the bondholder should be paid, but I believe the people that dedicated their life, that had an agreement with the city should be paid first and the city services should be continued. Now think about this. You're out campaigning and you're

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going door to door and you're talking about this issue. How many of your constituents would say, yes, put the bondholders first, put the banks first. Just do a survey in your head. Would they say, yes, we want the bondholders paid, but in the order of city services, pensioners, bondholders? We should keep our deals, but we should make sure we keep those deals first to the people that have dedicated their lives, paid into the pension system, sacrificed not ever getting Social Security. They should be paid first based on the human capital, what they dedicated, what they did, and of no fault of their own, based on mistakes made by other people possibly because of a bankruptcy, then the bondholder should be paid after the pensioners and after the city services are provided for. And this is something I would like to talk to Senator Schumacher off the microphone after this and talk about the idea of in what order, because he has a legitimate point. There should be an order. But I believe the people that we serve and the people that served us should come before a bondholder or a bank. Thank you, Mr. President. [LB72]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Senator Hansen. [LB72]

SENATOR HANSEN: Thank you, Senator Hansen. And I have to thank Senator McDonnell for his remarks. Throughout this debate, multiple people on the microphone have gotten up and said, what's risking bankruptcies for our political subdivision, what's risking bankruptcies for our governmental units is unfunded pension obligations. That's what we're worried are going to bring cities and other subdivisions down. Well, those, as Senator McDonnell pointed out, are promises to local employees that they've made over the course of careers, contracts with local employees they've made over the course of careers. And we are saying, we do not value that. We do not value that any more than the bondholder. Now the bondholder might be truly an individual. It might be, you know, sure someone else's retirement account. That doesn't mean they're in Nebraska. That doesn't mean they have any sort of other connection. That doesn't mean they're not getting extra profit in exchange for the risk they took, as opposed to the people who bargain for local pensions and are expecting that and that is their one source, their one option, and we're saying no, no, that's down, that's not first on the list, that might not even be second on the list, it's just down the list some ways. It goes back to my earlier concern where I still need to be convinced of a situation in which there's a point of no return. You realize you've made a series of bad mistakes as a city and knowing you can get rid of all of the pension debt under LB72, you just stop doing it. You stop doing until you reach the point of no return and that might be a stopgap measure or whatnot. But that's going to be like a tough thing to go, as Senator McDonnell said, look your constituents in the eye and say, you know what, we were really sticking up for people's mutual funds scattered across the country, scattered across the globe instead of our local employees. Now earlier, it was said my amendment...my amendment earlier, it was said something along the lines that my amendment doesn't do much. My amendment, if the goal is to clarify the state of current law in Nebraska, having a law that says, bankruptcy judge, look at all of the contracts, look at all of the language. Balance the bond language, balance the union contracts, balance everything the city has ever done and come out with what you think

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makes sense. This is why we have bankruptcy judges. They're able to do this with corporations. They are able to do this with individuals. And all of a sudden when it comes to government subdivision, we're going to take a step back and go you know what, we don't trust you in order to do that. I think if we are worried that bondholders don't currently understand the state of Nebraska law, an amendment like AM787 that says the state of Nebraska law is we let the bankruptcy judge sort it out, it's pretty clear. I'm interested in other discussions and some of the other things that's been said about disclosure language, this, that, and the other thing. I appreciate some of my colleagues here that talk to constituents that like investing in municipal bonds. That's not a conversation I've had with constituents, and maybe I've missed that. But I think I'm much more inclined to represent people who are probably going to get the tough end of this, under LB72, they're more likely to be city pensioners, county pensioners, something of those likes. So that's what we're going for. And then sure, I know some people have taken exception to Wall Street versus Main Street and the exemptions from that and it's not a banker bill. I'll just point everybody at the committee statement from this year. There was not a single group, entity, municipal subdivision, this, that, or the other thing that came in support of this other than the Bankers Association. Sure they might only get 9 percent of the pie, but when we're talking about, in the case of Omaha, the number I heard thrown out earlier was a billion dollars, 9 percent of that's no small chump change. If we're worried about what's best for our communities, I don't know why we wouldn't have some sort of... [LB72]

SENATOR FOLEY: One minute. [LB72]

SENATOR HANSEN: ...element of local...thank you, Mr. President...element of local control to put new language in their bonds, to negotiate the contracts, to give other security interests, do whatever they need on the local level that makes sense for them, as well as to be able to justify that to a bankruptcy judge that decides what's best for that community. Here in LB72 we're saying, step on back, the number one priority of the state of Nebraska is good interest rates on bonds, as opposed to any other thing we could do with a political subdivision. And that's my hesitation with the bill. Thank you, Mr. President. [LB72]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Blood, you're recognized. [LB72]

SENATOR BLOOD: Thank you, Mr. President. Fellow senators, friends all that are still left on the floor, because it doesn't look like there's a whole lot left here right now, as of right now, I stand in opposition to both the amendment and the bill, because I feel that there's a lot of questions that have yet to be answered that I'm hoping that Senator Schumacher can answer after I go through my concerns. And I come at you as a state senator with a municipal background, not just making observations in an area where I've never participated, but as a participant in a municipal background. And I'd like to share my concerns as they pertain to Nebraska's

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municipalities. So, first of all, I'm concerned that we have not had any documented testimony or had access to any published documents from rating agencies to verify if this will indeed have a negative or a positive impact on bond ratings. We've only heard opinions. From a municipal view, why would we give bondholders more security to the detriment of all other creditors of a municipality without what I see is a clear market demand. Why are we hardwiring...can I get the gavel, please? Why are we hardwiring lien priorities without allowing the flexibility to agree contractually otherwise? And lastly, as written I really believe that this bill could potentially change priorities for existing bond issues. I think it could incentivize municipalities to add a tax as a security to certain finances to preserve parity status for other obligations, especially transactions where historically it had not been done in the past. This bill would force their hands to do so because of this and the fact that bank purchases would likely come to demand or expect it based on what I've seen in the past and because doing so would be legally required for parity status. So I also think there's a potential that taxpayers would be exposed to more liability than otherwise necessary as opposed to less liability. And then I have concerns with the answers of Senator Wishart's questions where it was suggested that a municipality would come to the state. Well, quite frankly, Senator, when I came onto the Bellevue City Council, we were \$10 million in the hole and we had lost both our federal and state funding because we were in a recession. And nobody but our hard work pulled us out of that recession and prevented us from going into bankruptcy, because there was no reserve fund at that time in Bellevue. So to come to Nebraska to ask for a bailout I don't think is very probable. And the other thing I want people to think about today when they look at this bill and we talk about municipalities and finances, you know, if you want a municipality to not go bankrupt, then all these bills that pertain to the municipalities and other public entities' cash reserves need to go away, because when you start picking at those and a municipality or another public entity has a crisis, they are going to lose their shirts. And so with that, I hope that Senator Schumacher can address some of my concerns. I appreciate the intent of the bill. I think it was a noble intent, but I unfortunately do not feel that this bill does it. Thank you. [LB72]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator Quick. [LB72]

SENATOR QUICK: Thank you, Mr. President. I'd like to talk a little bit about...I know I've heard a lot of senators on other bills talk about unintended consequences. And actually, you know, on a couple of bills that I would start supporting or thinking I would support, by the time we're done I'm going, this isn't very good. So, and I think it's going to...it could end up with consequences that we would have to live with that wouldn't be good for...and on this one, I think it would be a detriment to working families. I know I worked for a government employee (sic: employer) for 28 years and being involved with that, I know along the way they would make good choices, they'd make bad choices. Some were based on how much money they had or their budget shortfall or whatever. And I know one year they decided not to water the city parks and it ended up being a very bad choice. They decided they didn't want to remove the snow, which ended up

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being a very bad choice, because the residents of Grand Island were pretty upset about that. One of the other choices that they made along the way affected the city employees and I think they're still suffering from that today, but we were self-insured and they decided that they were going to, since they had more money in that fund than they actually thought they needed, they decided to take some money out of the insurance plan and give it back to the general fund. And about six months later, they decided they needed to raise our insurance premiums, so that was a very bad choice. And I actually told the members of the insurance committee that was a bad choice, but we still ended up paying for it. And it ended up costing the taxpayers more money in the long run, because they had to pay for those insurance premiums just like the employees did. Now, with that, I would say with this bill I think what you're doing is you're sacrificing or you could sacrifice pensioners. And I don't think putting the bondholders ahead of the pensioners is the right thing to do. And I can tell you from my...with my own 401(k)--I didn't have a pension plan with the city of Grand Island, but I had a 401(k)--I'm not guaranteed anything on that 401(k). I would love it if I could get a guarantee on all my 401(k) money. We had a guaranteed...it was called a guaranteed fund within that 401(k) that we found out was not guaranteed. But just like anything, I heard it said that a contract is a contract or you're led to believe this is the way it is and that's the way it should be. Well, things aren't always as they seem and I do think that some of the employers (sic: employees)...government employers (sic: employees) have unions and they have union contracts and we need to honor those as well. And they've also got within their personnel rules, this is what you'll have in your account when you're done and this is what you'll have for retirement money when you leave. So I'm going to say that I am against LB72. I see what he's trying to do with that, but maybe if we made city services and pensioners first before bondholders, maybe that's the route we should take. But in any case, I don't know that the bondholders should be placed first on the priority list. With that, thank you. [LB72]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Crawford, you're recognized. [LB72]

SENATOR CRAWFORD: Thank you, Lieutenant Governor, and good afternoon again, colleagues. In this turn, what I'd like to do is come back to a key question about the bill and what the purpose of the bill is and whether the bill is necessary. And also, hopefully, I'll have time to ask one or two questions of Senator Schumacher. Before I start that though, I do want to acknowledge my respect for Senator Schumacher and I think what I understand is his fundamental concern about making sure we're being fiscally responsible. And he has been a tireless advocate to tell us and remind us in our actions here that we need to be fiscally responsible and try to push and make sure that our policies are ones that are encouraging fiscally responsible decisions throughout our state. And I really see his interest in this bill and from my conversations with him is really the question about making sure we're being financially responsible, and I respect that concern. And I understand his concern about wanting to make sure that we're attentive to that issue now while we are not in a crisis, because it is more difficult to address that issue when you're in a crisis. And also to acknowledge Senator Kolterman's concern



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about making sure that governmental subdivisions are making responsible choices about pensions. Now, I think those are key questions for us to consider. However, colleagues, I don't think that putting bondholders first, as LB72 does, addresses those fundamental issues. It does say, if things go south, if the subdivisions make poor choices on pensions or make poor choices in debt limits, that we're making sure that bondholders are taken care of. But I don't think it addresses the fundamental issue of making sure that we're being attentive to encouraging financially sound decisions and reducing risk. I also again want to remind you that we have bond ratings and interest rates that reflect risk. So as a governmental subdivision engages in more risky behaviors, they see their bond ratings go down and that let's people know who are buying bonds, heads up, this is a riskier investment. I acknowledge, as several speakers have noted, that many of our fellow citizens have these bonds, some are in Nebraska, some in other states. And it's an important part of many retirement portfolios, because it's considered a low risk investment. But also it's important to recognize in that mix as we're considering whether it is a good idea in statute to put bondholders first in line and put them prior to all other obligations. That's what this bill does. So if you look on page 6 of the bill you're going to see the language that shows that we're putting those bondholders first above all other commitments. So, again, yes, our general obligation bond purchasers are important to our governmental subdivisions. They provide important service to us in providing access. [LB72]

PRESIDENT FOLEY: One minute. [LB72]

SENATOR CRAWFORD: Thank you. In return for that, they do get an interest. In return for that, they also get tax benefits. And as Senator Kolterman noted, often the people purchasing these bonds benefit from those tax benefits as well. So, it is important that we do have full faith and credit with those general obligation bonds. And LB72 is...parts of LB72 are really about what happens in a bankruptcy case. I'm going to have to wait to a future turn because I have questions about parts of LB72 that I think apply even outside of a bankruptcy case and may actually put property taxes at risk and local decisions about property tax at risk. But it looks like I'm going to have to wait to another turn to say that. I am in opposition of LB72. Thank you, Mr. Lieutenant Governor. [LB72]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Wishart. [LB72]

SENATOR WISHART: Thank you, Mr. President. I rise today, I do have concerns with LB72 and here is why. I think the deeper concern is municipalities being able to file for bankruptcy. And I'm looking into this, but apparently this was legislation introduced by Senator Warner. I wish Senator Chambers was here because he was probably serving at the time that this legislation was introduced. But before that, cities and municipalities were not able to file for bankruptcy. My concern is that I see that there are obligations for the investors and also for those

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who have pensions that need to be met. And I don't think one should be put before the other. I think they're both obligations that need to be met. I do have a few other questions for Senator Schumacher if he would yield. [LB72]

PRESIDENT FOLEY: Senator Schumacher, would you yield, please? [LB72]

SENATOR SCHUMACHER: Yes, I will. [LB72]

SENATOR WISHART: Senator Schumacher, are you aware of the history behind Nebraska putting into law the ability of municipalities to file for bankruptcy? [LB72]

SENATOR SCHUMACHER: I'm not aware of the specific history. I do know that when, I think it's Chapter 9 of the Bankruptcy Code, was developed and encoded along with Chapter 11 and Chapter 13 and Chapter 7 that generally the states, and I assume at that time Nebraska also, wanted to be in a position to take advantage of that. I don't...I'm not a...I wasn't around when the Homestead Act was crafted, maybe Senator Chambers was, but that's my knowledge. [LB72]

SENATOR WISHART: Well, again, and I'll echo what Senator Crawford said. You know, I commend Senator Schumacher for us starting to have the discussion about fiscal responsibility. One of my concerns as a freshman senator is that we don't have a 20-year strategic plan for the investments that we're making. That's a concern of mine. I think a lot of the issues around potential bankruptcy of municipalities could maybe be solved if cities also had strong 20-year strategic plans and were very confident in the investments that they were making and making sure that they weren't spending beyond their means. So again, while I commend Senator Schumacher for us having this discussion, I am concerned that LB72, for me at least, doesn't get to the real root of the issue, which is municipalities filing for bankruptcy. I do have one more question though for Senator Schumacher and that's along the lines of local control. I mean, this legislation removed a little bit of local control. And so my question would be, why...because I know, Senator, you've talked about mandatory minimums and us giving responsibility to the judges who have taken a lot of time to be educated and move their way up the system to achieve that position, why would we feel that we wouldn't want to give them the same responsibility at the local level for dealing with this issue? [LB72]

SENATOR SCHUMACHER: Because it's an obligation of a Legislature to do things like tell that federal bankruptcy judge what we want as state policy. And that federal bankruptcy judge going off unguided in this city that may declare bankruptcy or this county that might declare bankruptcy or that city is not good policy. And, unfortunately for us--or maybe fortunately--the buck stops here and we have to set down the guidelines. [LB72]

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PRESIDENT FOLEY: One minute. [LB72]

SENATOR SCHUMACHER: And the guidelines are, if you lose local control because you made bad investment decisions and we, a higher level of government, whether it's a federal court or the Legislature has to step in, this is what we want the rules to be, because you forfeited local control by a series of years and years of bad decisions and bad bargaining. [LB72]

SENATOR WISHART: Okay. Thank you. [LB72]

PRESIDENT FOLEY: Thank you, Senators Wishart and Schumacher. Senator Howard, you're recognized. [LB72]

SENATOR HOWARD: Thank you, Mr. President. I hate this bill and I am a big fan of Senator Schumacher. So I suppose it's one of those like, don't hate the player, hate the game kind of situation, I would say. And so I try to think of...we've had this conversation several times. And every time we talk about how, don't worry, you guys, a municipality is never going to go bankrupt. Right? And it always reminds me of one of my favorite shows, which is Parks and Recreation which I may be alone in that, but there's this wonderful character, a very handsome fella named Ben Wyatt who comes to Pawnee and he's going to be an accountant for Pawnee and when you dig into his past, he was elected mayor of Partridge, Minnesota, at the age of 18. And because he was so inexperienced he ran the town's finances into the ground on a failed sort of project called Ice Town. He took all of the city's money and put it into developing a winter sports complex in Partridge, Minnesota. I think any of us could have told him that that was a terrible idea. And he ran the town's finances into the ground, the town went bankrupt and they ran him out of it and then he becomes a accountant for Pawnee in the show Parks and Recreation. What's hilarious about that is that we keep on saying this is never going to happen in Nebraska. But right now we have a mayoral candidate in Omaha who is running on a platform of bringing an NFL team to the city, because that's going to be the thing. And to me, that seems like Omaha's Ice Town, the winter sports complex in Minnesota. Right? It seems like a terrible idea, but it's possible, right? I think about cities like Beatrice. They have a settlement, a lawsuit settlement that could break the bank for them and for that county. This is a very real possibility. And so, you know, we talk about, oh, this has never happened, this will never happen, calm down. We'll do this very small thing and don't worry, it will never happen, but Detroit happened, right? It happens every day. And so I think when we're making these considerations, we have to think, sure, it happened in Partridge, Minnesota, on a fictional, comedic television show. But it could certainly happen in Nebraska, it just hasn't happened yet. And so when I think about who we're putting in priority, I always think about my mother, I always think about my grandfather. My mother was a 34-year veteran of our Health and Human Services Department as a front-line caseworker. She was a union organizer. She helped unionize the Nebraska Association of Public

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Employees in the '70s before I was born, after my sister was born, and it was always really important to her to have that sort of union value, but it was also always important to her to pay into the pension so that she knew when she retired she was going to get it. Right? And what we're talking about now is that my mother will be a social worker for 34 years, she will work on the front lines, she will do all of the things that none of us want to do. She will deal with families that are challenging, she will make tough decisions, and she will do that for three decades of her life. And then if Omaha goes bankrupt because we're trying to bring in an NFL team, we're going to tell her, you know what, we were just kidding. JK, it's totally fine, you don't get your pension anymore, because there were these bondholders who knew the risk that they were talking--granted, you didn't, but that's totally fine--and some lawmakers got together and decided, we're going to put bondholders ahead of you. Okay, that doesn't seem like something that I can get on board with when we're talking about regular, normal everyday taxpayers, I'm thinking about my mother who is a pension holder and to me it seems like we are... [LB72]

PRESIDENT FOLEY: One minute. [LB72]

SENATOR HOWARD: ...betraying the trust that our union workers can put in their pensions. It is hard enough to fill those jobs. We've got 30 vacancies for caseworkers right now. We cannot get enough people to do this work, much less tell them we're going to make a promise to you and then tomorrow we might change our mind, maybe. Or we're going to make a promise to you and we've changed our mind, we've changed the law, and you're definitely second in priority. That's not the game that I want to play and it's certainly not the game that I want to play with our working families in the state of Nebraska. And so I rise, I guess, in support of AM787, but in certain opposition to LB72. And that's coming from a fan of Senator Schumacher's, of course. Thank you, Mr. President. [LB72]

PRESIDENT FOLEY: Thank you, Senator Howard. Senator Vargas. [LB72]

SENATOR VARGAS: That came up quick. Okay. So along the same lines as many of my colleagues, when I first read this and I'm listening to the conversation, I was debating on whether or not to chime in. The thing that really struck me the most is there seems to be a problem that has not been identified or that we're seeing right now. We're seeing a problem maybe nationally that bankruptcy is real, that's happening; but finding a...in search of a...solution in search of this problem, it doesn't seem to make sense, especially when we're talking about the people that have been investing in their pensions and are doing this work, that they're the ones that are not going to be prioritized when we're thinking about what we're putting into statute. That concerns me. That concerns me for a lot of reasons, not only from running a campaign, thinking about my father who has a pension and my brother who has a pension and my wife and many other individuals that would be affected by this. But just hearing about the concerns at the doors of the

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individuals if we were making a decision on whether or not to prioritize somebody other than individuals putting into their own pensions just concerns me really deeply, which is why I'm against LB72. But I'm also trying to wrap my head around who are the individuals that are opponents to this and why. It's unique to see the municipalities and a couple of different other organizations, labor unions, being united on some things seeing that it's not an issue...we're stating it's not an issue. And I had to reference back even to 2015 and some of the testimony, and even had a letter in front of me from the city of Omaha, the city that I represent in downtown in District 7, stating from the city that this legislation is unnecessary. And this was in 2015 and still supporting...they're against this. Legislation is unnecessary. It's a solution in search of a problem. Risks should always be shared by all creditors of the city, including bondholders. Investments always carry some risk. And please consider the consequences of this. So I want to make sure I'm responding to the multiple different stakeholders, municipalities, those individuals that are putting money into pensions to ensure that we are being responsible and not putting another entity over people. I think that's what this comes down to. And then even looking into more research around some of the bankruptcies and what we're seeing across the country, I don't think every single city that is cash-strapped that is going into bankruptcy is going down this route. So it leads me to believe that if they're not going down this route, this isn't the only solution to this problem. So I want to make sure that we're doing our due diligence, not going down a route because it seems like an easy route to create all-encompassing statute that could have detrimental affects on not only our public, but specifically individuals that have been working their lives to make sure they're putting money into something that they're expecting and we're not putting them last on the totem pole for something that they have worked their entire lives for. Thank you very much. appreciate it. [LB72]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Quick. [LB72]

SENATOR QUICK: Thank you, Mr. President. Going off a little bit what Senator Vargas just said, I looked at who opposed this bill. Of course, you had the League of Municipalities, which represent most of the smaller municipalities in the state. You got the city of Lincoln, the city of Omaha, and then you had some unions who look out for the best interests of most of the employees they represent. And I don't know if anybody ever asked any of the citizens, like Senator McDonnell said, but I would be willing to bet that a lot of citizens within these communities wouldn't want to put the bondholders first either. So, I would just say that we need to be careful about what we do. And then I would also look at...I was going to talk a little about when we had the snow removal problem when we didn't remove the snow and didn't water the parks and how that affected the residents of the city of Grand Island. They were pretty upset about not having their city services. I would also say that working families count on this pension money. I mean, this is what they work their whole lives for to someday be able to retire. If you put them on at the disadvantage of not knowing whether they're going to receive that pension or not, I think it could hurt employment. I think it could hurt the cities in the way they recruit

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people to come there. If an employee would look at that and say, well, there's no guarantee I'll receive my retirement money, but you're going to pay the bondholders first. Well, that puts them at a disadvantage for hiring. You may get people to loan you money or buy the bonds, but you're not going to get employees to work for you. One other thing I want to talk about a little bit is-- and I know this happens--pension funds are...sometimes in the good years, from what I understand, employers decided not to...because they were fully funded, they decided not to put their share of their money in. And what happened then was, then you had the economic downturn. And from that point they decided, well, we can't make up the money that we didn't put in in the other years. And that's why you have some of these funds that are showing that they're underfunded. And that's not the employees' fault, that was some more bad decision making by maybe an employer. So I would just say we just need to be careful about what we do. And I would still oppose to LB72. Thank you. [LB72]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Morfeld. [LB72]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I was listening to this debate a little bit while I was in my office on something time sensitive for my other job. And I've been listening to debate fairly closely and, like many of my colleagues before me that have talked, I fail to see the need for this legislation. And while I appreciate Senator Schumacher--and everybody has thanked him for bringing up the conversation--quite frankly, I'm not going to thank him for bringing up the conversation because I think it's bad policy. And I've often referred to "Professor" Schumacher as a professor of theory. I think that, theoretically this is an interesting conversation to have. But in practice, it, number one, isn't solving a solution that actually exists. Number two, I think it's tough for me to go back to the people that have dedicated their lives to public service for usually not a lot of money and oftentimes, depending on their a position, a lot more grief than they deserve and say, oh, by the way, we're going to put your life's work and your pension behind a bunch of people that in many cases we don't even know who they are and oftentimes live out of the state. I also, I've gone out and talked with some of the cities and some of the other individuals. I've asked, man, are people not buying bonds? Are you not able to be able to get bonds to build things or do things in your city because we don't have the solution that LB72 is purportedly trying to provide? And I'm not hearing that. The city that I represent, the city of Lincoln, I think has a triple-A rating. And LB72 isn't going to help with that. We already have a process in which the order of people and priority is selected via the courts. The bondholders and the people buying these bonds, they realize the risk that they're getting into. We have measures of risks that are already in place in these markets. LB72 just simply prioritizes people that we don't know often that are out of state over hardworking folks that live right in our neighborhoods, right in our communities. And, granted, many of those people that are in our districts may also be investing in bonds. I know that that's a luxury that many people that I represent in my district don't have, but I know that there's many Nebraskans that do and they may be some of these bondholders. But the bottom line is, they're taking a risk,

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they're making an investment. They don't want to take that risk or make that investment, they also don't have to. There's other safer investments out there, I suppose. But in any case, I'm opposed to LB72 because it doesn't address the problem that is actually a problem as far as I can tell. It doesn't increase the ratings of any of our cities and municipalities and other places in order to get the resources they need to build the things that they need, infrastructure and otherwise. And, quite frankly, I think it just puts out-of-state and faceless other entities that aren't our neighbors and our friends ahead of the people who do serve our communities, do serve our cities, work in our schools. And I can't stand for that. Thank you, Mr. President. [LB72]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator McCollister. [LB72]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor. Once again, good afternoon, colleagues. I'm sympathetic to the plight of employees in the event of a bankruptcy. We certainly saw that in the city of Detroit and what happened there despite the fact that the language in the contracts was explicit, the employees got a share of the proceeds during the bankruptcy. So I understand their situation and I'm sympathetic. But it seems to me one of the jobs we have here in this place is to resolve ambiguity, and we aren't doing that. Would Senator Hansen yield for a question? [LB72]

PRESIDENT FOLEY: Senator Hansen, would you yield, please? [LB72]

SENATOR HANSEN: Yes, I would. [LB72]

SENATOR MCCOLLISTER: Senator Hansen, AM787 will do what with reference to LB72? [LB72]

SENATOR HANSEN: It will replace the contents of LB72 with a clear statement that a bankruptcy judge has discretion to determine creditor priority. [LB72]

SENATOR MCCOLLISTER: So it would not give a clear preference to either the employee unions or the bondholders, is that correct? [LB72]

SENATOR HANSEN: That's correct. [LB72]

SENATOR MCCOLLISTER: Wouldn't you say that does create some ambiguity in the process? [LB72]

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SENATOR HANSEN: I think this clarifies an ambiguous process, yes. [LB72]

SENATOR McCOLLISTER: I would contend that no one is well served by vague language in statutes and nor do we want to give any judge the idea or give him the right to change a contract or, in effect, make laws for a city. Historically, bondholders have been the first in line and the bonds have been sold on that basis. And the buyers have purchased those bonds on that basis. So what we're doing now is inserting new language to make that more ambiguous and vague and I don't think that's good. I think what we need to do is, either way we go, is to make clear that it's either the bondholders or that the bondholders and the city of unions have equal footing, but we shouldn't make this situation vague like we have. Thank you, Mr. President. [LB72]

PRESIDENT FOLEY: Thank you, Senators McCollister and Hansen. Senator McDonnell. [LB72]

SENATOR McDONNELL: We've been talking about the bondholders, and earlier when I spoke...thank you, Mr. President...earlier when I spoke I was mentioning the bondholders and bankers. If you look at past testimony, Federal Reserve says 44 percent of municipal bonds are held by individuals. Individual investors hold 44 percent of the bonds. Twenty-five percent are held by mutual funds, and roughly 31 percent are held by bankers, banks and insurance companies, but 44 percent are held by individuals. So back to what Senator McCollister was just mentioning, the fairness. The idea of that individual that wants to go ahead and make an agreement with the city that holds the bond that expects in 30 years for that to be paid and for them to make X number of dollars. I believe that's totally fair. But do you think 44 percent of those people as individuals wouldn't make that deal if they knew the individuals that had given 17 percent to 20 percent of their paycheck for 30 plus years, had an agreement with the city, had fulfilled that agreement, and were now relying on that check and that agreement to feed themselves, do you think 44 percent of those individuals that hold those bonds would not enter into an agreement with a city? Now we're talking about individual recidivism. We're not talking about banks versus individuals, we're talking about an individual investor that made an agreement with the city. You have two individual investors. You have one that dedicated their life, did their job. And you have another one that for possibly 30 years issued a bond and made money off that bond. So we're talking about fairness. Would Senator Schumacher yield to a question? [LB72]

PRESIDENT FOLEY: Senator Schumacher, would you yield, please? [LB72]

SENATOR SCHUMACHER: Yes, I will. [LB72]



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SENATOR McDONNELL: Senator, looking at your bill and the idea of putting some kind of order to it, knowing that it would be left up to a judge that we've never had in the state of Nebraska a municipality file for bankruptcy, but if it did happen, the judge would rule either possibly the bondholder comes first, the pensioner comes first, the city services come first, would you be open to an amendment that said, the pensioners and city services come first, bondholders are third? [LB72]

SENATOR SCHUMACHER: I don't think that would pass this body, so it would be kind of a waste of discussion in that form. [LB72]

SENATOR McDONNELL: But the idea of the discussion, you bringing this bill forward for the sake of discussion, also trying to clarify and doing some down-field blocking for potentially the future, if there is a bankruptcy, you, as a state senator, do you feel that having the pensioners, city services come first and second versus the bondholders coming third, how do you feel about that, Senator? [LB72]

SENATOR SCHUMACHER: I don't think that addresses the issue, because one thing that's kind of in the discussion here is, you have the pension holders--and you've made a good argument--you have the bondholders who, as you say, are 40 percent individuals and 45 percent mutual funds, and individuals own those mutual funds and the shares in them, so we've got most of the bondholders being real people, directly or indirectly, that they're relying on that for their pensions. What isn't in the discussion is the cities who are creating or have the potential of creating in the future, insecurity for both the bondholders and the pension holders by being too eager to put off until tomorrow debts they should be paying today. [LB72]

SENATOR McDONNELL: Thank you, Senator. [LB72]

PRESIDENT FOLEY: One minute. [LB72]

SENATOR McDONNELL: So back to the idea that the cities...if the cities make mistake, as Senator Schumacher just mentioned, mayor, city council, they made mistakes. Now the individuals that are going to pay for it are those individuals that fulfilled their agreement, made no mistakes, have no seat at the table, have started their retirement life, and they're going to pay for it prior to the person that made an investment, a financial investment--and 44 percent of those are individuals--getting paid based on their return on their bonds. There's got to be a fairness here, and I agree with Senator Schumacher that there should be an order. The order should be the individual, the pensioner, city services, then the bondholders. Thank you, Mr. President. [LB72]

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PRESIDENT FOLEY: Thank you, Senator McDonnell. Senator Stinner. [LB72]

SENATOR STINNER: Thank you, Mr. President. I rise in support of LB72 and against AM787. I think we've covered a lot of the issues for the pro side as well as the con side, so I just want to enter a few things into the record. One of the things is, I think we understand the difference between revenue and general obligation bonds. Revenue has a specific source like the Pinnacle Center, and the general obligations have to do with making streets and sewers and those types of infrastructure improvements where a city can borrow funds. I will say also as we talk about this issue that there are rated and unrated bonds. Now, as a small-time, country banker I have, over the course of my banking career, purchased nonrated GO municipal bonds. Okay? And I can tell you because of the bankruptcies in the past history that the scrutiny by the examiners have been heightened and we have to look at all possibilities, and they are risk rated in the different categories. So there is a level of scrutiny that it was way above what they normally would have been. What we're asking really in this act is to follow 28 other states to provide certainty to the bondholder. I think we've already decided that individuals own the majority of them, mutual funds. I, as a senior citizen now, am looking to tax-free income, so I'll probably be looking at some of these, and I sure would like to have certainty when I purchase that that in the unlikely event in the state of Nebraska, which is something I just read, an unlikely event that this is not a Nebraska issue, that somebody files bankruptcy. Now, I will offer you this, that you will see some legislation from me in the future that really takes a look at municipalities, cities, and counties and tries to rate each one or score those because we do have a Gage County. You remember that? Twenty-nine million dollars sitting there. We do have a Sidney, city of Sidney right now lost Cabela's. They have issued debt in order to put in streets and sewers and roads. They do have GOs outstanding. City of Ralston, we hear their name from time to time, just to mention a few. And, of course, we've got the SIDs, we've got schools, we've got hospitals, all the rest of that that we can take a look at, but those are generally considered revenue bonds. So it's not just a other person's problem. It is the state of Nebraska that needs to have certainty in order that these municipalities, cities, have access to markets. Now, I do want to clarify one point. We talk about pension holders and coming in the back of the bondholders. First of all, you have to understand, the only thing on that pension, if you paid into the pension and vested in the pension, it's held in trust. It's the unfunded portion of the pension that gets put into the unsecured pool. Understand that if the city of Omaha, for an example, who has a 60 percent funded pension, unfunded portion is 40 (percent), the 40 percent would be the part that would go into the unsecured pool, the 60 percent is held in trust on the pension side of things. I just wanted to clarify that. I'm fairly sure that I'm right about that, but those are the points that I wanted to make about this access to credit markets. I think we all understand that cities, counties, small ones, the city of Bayard, city of Gering, city of Scottsbluff, they're going to be nonrated but they need to have access. Those are the ones that really kind of need most of the protection with this type of language. So as I said,... [LB72]

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PRESIDENT FOLEY: One minute. [LB72]

SENATOR STINNER: ...I support LB72 and am against--I can't see it right now--AM787. Thank you. [LB72]

PRESIDENT FOLEY: Thank you, Senator Stinner. Senator Wishart, you're recognized. Senator, this is your third opportunity. [LB72]

SENATOR WISHART: Okay. Thank you, Mr. President. Again, I rise with concerns about LB72. I did want to correct a statement I made on the record. I did get the information about when the state put into law the authorization for cities and municipalities to be able to file for bankruptcy. That was in 1981, and it's statute 13-402, the bankruptcy authorization for political subdivisions. And I think though the larger conversation that we need to have as a Legislature is about whether it is financially responsible for us to allow cities to be able to file for bankruptcy. I think that is the first conversation we should be having before we decide whether we're going to be picking winners or losers about whose obligations are met when a municipality does file for bankruptcy. So, again, I will not be able to support LB72. I do commend Senator Schumacher, though, for bringing this legislation so we can start to have this discussion about our financial responsibilities as a state and the responsibilities we have as a Legislature in making sure that we have in law rules and regulations around municipalities in the amount of debt and financial responsibility they need to have. So thank you. [LB72]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Crawford, you're recognized. This is your third opportunity, Senator. [LB72]

SENATOR CRAWFORD: Thank you, Lieutenant Governor. And, colleagues, I rise again in opposition to LB72. We've heard a few people talk about the concern that our smaller communities may have in getting access to bonds that are unrated. I mentioned that we really have the bond ratings which help people assess risk for many of our communities and somebody mentioned that our smaller communities do not have access to that. But, colleagues, we did not...if you look at the committee statement and letters, you will not find small communities coming to ask us to put bondholders first because they're having trouble accessing bonds. This is not an issue that the small communities have come to us and asked for help with that. Again, as Senator Stinner's comments noted, people who are around the communities have some sense of what's going on in those communities and know something about those risks and so those risks still become a part of that conversation about those bonds. Colleagues, I want to spend this turn mostly asking some questions about other parts of the bill that are not about, as far as I can tell, about the bankruptcy situation necessarily. I'm concerned about other aspects of the bill that I think put our taxpayers at risk in terms of expectations of what this bill does in terms of what it

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tells local subdivisions they must do in terms of their property taxes. And so I'd like to ask Senator Schumacher a couple questions about what different parts of what this bill mean. And I encourage you to dig into the bill as well in terms of making sure that you see and understand the different parts of the bill that may be putting our taxpayers at risk. So I would like to ask Senator Schumacher a couple questions. [LB72]

PRESIDENT FOLEY: Senator Schumacher, would you yield, please? [LB72]

SENATOR SCHUMACHER: Yes, I will. [LB72]

SENATOR CRAWFORD: So one part of the bill is on page...the beginning of page 9, so we start on page 8. And it's talking about a situation when there's a trustee and the measures and the rights those trustees have. So this one I guess is, again, kind of back in the bankruptcy....may be in that bankruptcy...I think is related to that bankruptcy situation, excuse me. And so at the bottom of page 8, we're talking about what the trustee is able to do and have the right to bring proceedings against the governing body. And if you go on to the top of page 9, we have added the word, taxes, to that language. So we have a situation where what can a trustee do in this case? It looks like LB72 includes that a trustee could sue and require that a subdivision use...raise their taxes in order to make sure they can pay the principal, interest, and premium on bond or bonds as they fall due. And I wanted just to ask you what you thought it meant that we're adding the word taxes to that language and what we mean...so we're talking about making them whole. It's principal, interest, and premium, and what is that premium that we're paying? [LB72]

SENATOR SCHUMACHER: Basically, the "or tax" I believe is clarifying language. If you read the first part of that area that the trustee--and this is existing language--shall have the right to bring proceedings against the governing body of the governmental units to order the imposing of rates or charges with respect to any revenue-producing undertaking, and raising taxes is a revenue-producing undertaking. But I think this is clarifying to make it clear so everyone knows that that is the immense power of a trustee that probably exists right now because if the trustee has the ability to raise... [LB72]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: One minute. [LB72]

SENATOR SCHUMACHER: ...and apply the assets of the municipality, one of those assets is a right to raise taxes. But this makes that very clear that that's within the trustee's authority. [LB72]

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SENATOR CRAWFORD: Thank you. That's what we're allowing the trustees to require in a suit, that a subdivision... [LB72]

SENATOR SCHUMACHER: Or at least letting them know they have the authority. [LB72]

SENATOR CRAWFORD: ...that a subdivision would raise their taxes. The second, hopefully if we have time, is on page 7, line 9. This is section (f), and it talks about any general obligation bonds issued. They shall be equally and ratably secured by ad valorem taxes, property taxes levied, to be levied year to year by the governmental unit. What does that do in terms of the obligations on subdivisions in terms of the property tax responsibilities? [LB72]

SENATOR SCHUMACHER: What that basically says is something that a general obligation bond that has been issued shall be treated equally and secured by the ad valorem taxes--that's property taxes--levied and to be levied from year to year by a local government unit. So that basically treats all bonds equally. [LB72]

SPEAKER SCHEER: Time, Senators. [LB72]

SENATOR CRAWFORD: Thank you. [LB72]

SENATOR SCHEER: Thank you, Senator Schumacher and Senator Crawford. Senator Howard, you're recognized. [LB72]

SENATOR HOWARD: Thank you, Mr. President. Actually, I'd like to follow up on just something that I heard from Senator Crawford and Senator Schumacher. Would Senator Crawford yield to a question? [LB72]

SPEAKER SCHEER: Senator Crawford, would you please yield? [LB72]

SENATOR CRAWFORD: Yes. Yes, thank you. [LB72]

SENATOR HOWARD: So I was catching the last few minutes of your debate. Would it be possible for a bankruptcy judge to then tell the bankrupt municipality that they had to raise taxes to fulfill their obligations? [LB72]

SENATOR CRAWFORD: That was my concern about the language on page 9--that's why I asked that question--and my concern about what it also meant in terms of taxes on Section (f).

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And if you didn't hear what all you wanted to hear, you're welcome to ask that same question or dig deeper on those questions with Senator Schumacher. [LB72]

SENATOR HOWARD: I will then. Would Senator Schumacher yield to a question? [LB72]

SPEAKER SCHEER: Senator Schumacher, would you please yield? [LB72]

SENATOR SCHUMACHER: Yes, I will. [LB72]

SENATOR HOWARD: And I'll keep this one simple. Yes or no, would a bankruptcy judge be able to tell a municipality that they have to increase taxes in order to fulfill their obligations? [LB72]

SENATOR SCHUMACHER: I believe so, yes. [LB72]

SENATOR HOWARD: Yes, under LB72. [LB72]

SENATOR SCHUMACHER: Under anything. [LB72]

SENATOR HOWARD: Under anything, okay. [LB72]

SENATOR SCHUMACHER: Right. I think they can do it right now because the bankruptcy trustee kind of runs the show. He's a super mayor, super council, I think. They're in charge, and one of the obligations that they have is to float the boat. And if you have a municipality who right before it goes under, let's say, for example, says, well, let's just cut our taxes way back because if we cut our taxes we'll grow our economy, or whatever theory they might be operating under, and the judge says, wait a minute, you've cut your taxes way back or you don't have enough taxes, you've got plenty of headroom on your taxes, yeah, that's...when you turn things over to bankruptcy court, it's my impression, you turn a lot of power over to the bankruptcy court and throw up your hands and say, you know, judge, we can't handle it locally, we need your help. [LB72]

SENATOR HOWARD: So if it's currently like that in statute, why does LB72 have that section underlined as new language? [LB72]

SENATOR SCHUMACHER: Because I think it wants to underline that that's one of the powers that exists in the bankruptcy court. [LB72]

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SENATOR HOWARD: Well, it's underlined as new language. [LB72]

SENATOR SCHUMACHER: Right, it is, but it... [LB72]

SENATOR HOWARD: I think that's my confusion. [LB72]

SENATOR SCHUMACHER: ...it's explanatory of the prior few words. It says levied...let's see if I've got the right page here. Oops, I've backed up a page. [LB72]

SENATOR HOWARD: Page 7? [LB72]

SENATOR SCHUMACHER: Is it page 7 at the top is where we see it? No. [LB72]

SENATOR HOWARD: Lines 9 through 12. [LB72]

SENATOR SCHUMACHER: Page 7, lines 9...oh, this is not the one where "tax" is underlined. [LB72]

SENATOR HOWARD: Okay. [LB72]

SENATOR SCHUMACHER: That's on the top of another page here I think that Senator Crawford called to my attention and it's on the same...ah, here it is. [LB72]

SENATOR HOWARD: Well, before I run out of time... [LB72]

SENATOR SCHUMACHER: The top of line (sic: page) 9 is where... [LB72]

SENATOR HOWARD: Okay. [LB72]

SENATOR SCHUMACHER: ...it says, it adds the word "or taxes." [LB72]

SENATOR HOWARD: Maybe I will give you my time on the next turn. [LB72]

SENATOR SCHUMACHER: Okay. [LB72]

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SENATOR HOWARD: But I did actually have another question for you. [LB72]

SENATOR SCHUMACHER: Okay. [LB72]

SENATOR HOWARD: And that...you know, when I'm not at home watching Parks and Recreation and drinking (sic) whole sleeves of Thin Mints, I am usually assiduously reading the Nebraska Constitution. And I wanted to talk to you about Article I-16 because that says that no law "impairing the obligation of contracts, or making any irrevocable grant of special privileges or immunities shall be passed." And my concern with LB72 is it looks like we're creating a special privilege and an immunity for bondholders that doesn't already exist, and we're not creating that on behalf of the individuals who are pension holders as well. And so, you know, I'll yield the rest of my time to you to sort of address that constitutional concern, if you wish. I yielded my time to Senator Schumacher. [LB72]

SPEAKER SCHEER: Senator Schumacher, you're yielded 1:03. I pardon myself. [LB72]

SENATOR SCHUMACHER: Thank you, Senator Howard, and thank you, Mr. Speaker. The issue, I believe, of the constitutional provision of special immunities did not apply to general laws that apply in all situations. Clearly, many occasions of our legal system, we do create priorities. We create priorities in the general banking law. In fact, almost everything that comes through here dealing with mortgages or anything like that, in order to protect the sanctity of the financial markets, says/establishes some order of priority for one group or another, some order of obligation. I don't think establishing an order of priority among debt holders in a municipal situation violates that particular section of the constitution. It is... [LB72]

SPEAKER SCHEER: Time, Senator. Thank you, Senator Schumacher, Senator Crawford, and Senator Howard. Senator Hansen, you're recognized. [LB72]

SENATOR HANSEN: Thank you, Mr. President. I appreciate the debate we've had today, and I keep coming back to Senator McCollister asked me a question on whether or not my bill added to the vagueness. I think any statute we add clarifies. My addition, LB...sorry, AM787, is an attempt to clarify judicial discretion. We are going to leave it to up to the judge to look at all of the various bonds that have been issued, all of the various contracts with the city, all of the various negotiations with labor units, and decide what promises have been made, what promises need to be kept, what is the public policy interest in terms of discharging all those debts and creditors. Fundamentally I think we have some issues on dealing with LB72. I was talking with bond counsel back when it was LB67, but I was talking with bond counsel at the city of Lincoln and they said, because since the city of Lincoln has the best credit rating available, fundamentally they are worried that any change to this statute, any change to this section of



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statute can only harm their credit rating, their bond rating. There is nowhere...they cannot go up. There's no change, no thing we can offer to take them higher. Now we might be wary they're about to fall and we want to boost them back up and that's a dispute we could have, but I think there we're starting to look at the tea leaves a lot about various financial markets, and that's not my area of expertise. What I do know is Lincoln cannot go anywhere but down, and if we start changing this law, if we start telling to out-of-state investors that we are worried, we are incredibly worried as the Nebraska Legislature that we're having to do all sorts of this, that, and the other thing, protections to our municipal and government entity bankruptcy unit laws, maybe there's cause for concern in a kind of "smoke, there's fire" way. So the concern that the city of Lincoln had back then was that any change is actually going to risk having a detrimental effect to them. I know in our conversations we kind of keep circling back and there's different cities that this applies to or different cities we're worried about. Obviously with cities and other, excuse me, municipalities...government entities, excuse me, fundamentally I get back to this whole issue of how are we going to do this, how are we going to regulate this industry or make sure we have effective rates? The incentive of the cities is the market, is the bond market. If they are doing things, if they are taking on unacceptable amount of debt, there are vehicles and methods in which they get rated for bonds. And if that debt is starting to go too far in the wrong direction, they will lose and have their bond rating account for that, and then it will be up to the city leaders to make either adjustments or accept that change. Adding more statutory language, looping in various other entities, looping in new taxes and a dispute over whether or not that's in current statute or not or at least some confusion over whether that's in current statute or not, just, I think, frankly, further muddles the issue. So if there's a search for clarity, I don't know, and if AM787 doesn't provide it, I certainly don't think LB72 provides it. You know, I think there's a lot of different ways we can have, and some of the conversations off the microphone both today, both in the past when we were talking about various bills, I mean, we can start looking at other ways of focusing on city finances and various other things. If what we want to do here is kind of pull up a few city councils in front of the Legislature, tell them they're doing a bad job and tell them to cut it out, there are ways to do that without fundamentally changing bankruptcy laws in the state of Nebraska for all municipal entities in all situations that will fundamentally... [LB72]

SPEAKER SCHEER: One minute. [LB72]

SENATOR HANSEN: ...and forever--thank you, Mr. President--fundamentally and forever put bondholders above the local taxpayer, the local employee. I'm interested in finding maybe some more clarity. I think there's a possibility for that. But if AM787 does not provide clarity on judicial discretion to interpret all the various bonds and contracts and negotiations and labor agreements and budgets, and so on and so on and so on, that comes for the bankruptcy, I don't know what we're hoping for in this Legislature. Thank you, Mr. President. [LB72]

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SPEAKER SCHEER: Thank you, Senator Hansen. Senator Quick, you're recognized and this is your third time at the mike. [LB72]

SENATOR QUICK: Thank you, Mr. President. I again want to say that I look at this bill and think about unintended consequences. I look at who supported this bill when it was brought forward. It was the bankers and alone the bankers. I also looked at who opposed to it and it's city of Lincoln, city of Omaha, League of Municipalities, who represents most of the smaller communities in the state, and of course some labor unions. And I would guess that most residents in the state of Nebraska might also be opposed to this as it could affect their city services as well as the employees that work within those communities. I'm going to read a few things that...why this bill, I think, is bad for Nebraska and bad for us. LB72 gives preference to bondholders in the event of political subdivision bankruptcy, leaving pension funds and other priorities behind. Most government bondholders are Wall Street banks. They make a calculated and often insured risk to buy these bonds. Nebraska has never had a municipality file for bankruptcy. The only political subdivision that has ever filed for bankruptcy in Nebraska are sanitary improvement districts. Current law provides for local control. A Nebraska judge makes the decision with all the information about individual circumstances. LB72 would make an automatic decision without regard to specific scenarios. Lincoln enjoys a AAA bond rating right now, and Omaha has a AA bond rating. There are currently 12 states that specifically authorize Chapter 9 municipal bankruptcies, 12 states that conditionally authorize municipal bankruptcies, and 3 states that provide limited authorization of municipal bankruptcies, for a total of 27 states. Of the 27 states that authorize Chapter 9 bankruptcies, only Rhode Island appears to have enacted statutory language requiring that that gives first priority to bond debt in cases where a municipality files for bankruptcy, and that's the only one. Federal law prohibits state garnishment...federal law prohibits state garnishments against certain federal pensions including VA, Social Security, and railroad. So LB72 would create an inequity among pensioners. You know, and I think about some of these things that we said in here, and, you know, we're always talking about local control. And I think this takes some of that local control away. And I feel like if there was such an opposition or such a...the support would have been from municipalities had they wanted this. They would have been at the table and they would have said this is something that's going to benefit us, and evidently it is not, so they were all opposed to it. And I think this Legislature shouldn't pass a bill that could have unintended consequences that would lead to municipalities maybe sacrificing city services in lieu of paying off bondholders. It would sacrifice possible pensioners that have saved their whole lives or had relying on those pensions to see them through their retirement. And with that, I'll...thank you, Mr. President. [LB72]

SPEAKER SCHEER: Thank you, Senator Quick. Senator Harr, you're recognized. [LB72]

SENATOR HARR: Thank you, Mr. President. This is a subject I don't know a lot about, so if I sound like I didn't stay at a Holiday Inn Express last night, it's because I didn't. But I do know a

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little bit about investing. I've been listening, sitting back and listening to this bill and I keep hearing we need certainty and we need clarity. To a certain degree I agree with that. And let me explain the importance of certainty and clarity. When you invest money, you expect a certain rate of return based on the risk that you take. The higher the risk, the higher the rate of return. If you look at the bond market and you look at corporate bonds versus municipal bonds, municipal bonds are inherently lower than corporate bonds for two reasons. One is they're tax free. So if you are in the highest tax bracket, you actually get a higher rate of return because you don't have to pay taxes on it. It's diminishing returns if you're not in the highest tax bracket, it probably doesn't make sense. But if you are, it's a good investment and it's a way that we try to incentivize individuals to buy those municipal bonds. The second reason they're cheaper is because they're lower risk, because they're backed by property tax if they're general obligation, and probably a pretty good revenue stream if they're revenue bonds. But mainly it's because they're backed by property taxes or your taxing authority of the municipality, the city, the political subdivision, or the political state. I have heard in testimony today or in speech...floor speeches, 28 states already do this, what Senator Schumacher has proposed in LB72. I heard Senator Friesen say this will lead to lower interest rates because we'll have more certainty. What I haven't seen, either by searching my handy machine, Google machine, or in testimony or in handouts, is that it actually does lead to lower rates, nowhere. The chances of actual bankruptcy in this great state of ours are pretty slim. I would wager to bet that if a municipal bond was taken by the city of Bayard or Gering, their rate would be higher than the city of Omaha because Omaha is AA. Those smaller cities don't have a bond rating so you're going to take a bigger risk. Those...that has a bigger effect than LB72. To call it deck chairs on the Titanic would be insulting to deck chairs. This is not going to have much of an effect if at all. What will have an effect on bond rates is what Moody's says the city is, and we've seen how great Moody's is. Right? They did a great job of predicting 2008 real estate crash; they did a great job predicting what our economy would be doing two years out. [LB72]

SPEAKER SCHEER: One minute. [LB72]

SENATOR HARR: Thank you. Not sure that really matters. Again, tax rates, what the federal tax rate is, what your local state tax rate is, has a bigger effect on what the interest rate is. What federal monetary policies are has a bigger, larger effect than LB72. Inflation has a greater effect than LB72. I would love to see someone monetize for me what LB72 would save on bonds. I'm going to hit my light again because I have more to say on this. But really this is trying to figure out not how to split the fatted calf but how to split the lean calf before we even know what that calf looks like. Thank you, Mr. President, and I'll hit my light again. [LB72]

SPEAKER SCHEER: Thank you, Senator Harr. Senator McDonnell, you're recognized and this is your third time at the mike. [LB72]

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SENATOR McDONNELL: Thank you, Mr. President. I'm looking at the testimony from Monday, February 13, and the people that were opponents were: Paul Kratz, city attorney for the city of Omaha; Lynn Rex with the League (of Municipalities); John Corrigan, representing the Nebraska Professional Fire Fighters Association; Darren Garrean, also with the Nebraska Professional Fire Fighters Association. So you had the city of Omaha, you had the League (of Municipalities), and you had the people representing the people that are depending on those pensions for the rest of their lives all testifying saying this is not a good idea. Now I know Senator Kolterman earlier had mentioned about the health of Omaha's pension. He's absolutely right. We should all be concerned about the health of that pension fund. There's no one more concerned than the people relying on that pension fund for the rest of their lives--no one. Now working with the city of Omaha and the people representing the unions, the people that are relying on those pensions, they've made improvements. They've made sacrifices. They've made a number of changes. Now looking at it 17 years ago, that pension fund at one point hit 100 percent in a quarter. Has it gone down four years ago to in the 30s? Yes. Is it back up to 51 percent? Yes. So you have all these people working together to improve that and, again, I've had great conversations with Senator Kolterman about ways to try to improve that and the health of the pension fund. But here we are; we're coming back to a bankruptcy issue. We're going back to that's never happened in the state of Nebraska. We have Senator Schumacher saying, hey, there should be an order of how this happens or who gets paid if it happens. But you have people coming in to testify, and except for the bankers as proponents, you have the city, you have the people representing the people who are going to depend on that pension for the rest of their life, and you have the League all together saying this is a solution trying to find a problem. There is no reason at this time for us to approach this. As Senator Schumacher mentioned, he wants to do some down-field blocking, he wants to get things in place prior to this, and hopefully never happening, but prior to it happening if it ever would. We're just looking for some fairness. We're looking at honoring those contracts, that contract that that person did enter into, serve the citizens, serve their city, started their retirement life. And we're going to show them some respect and dignity for that service and honor the agreement they have and say you will come first, the citizens will come first, the city services will come first, before the bondholders. No one I believe would ever say the bondholders should not be paid. They should be paid. They had an agreement. But in what order should they be paid? Let's make sure we take care of the people that took care of us and those city services before we get to the bondholders. Senator Schumacher, would you yield to a question? [LB72]

SPEAKER SCHEER: Senator Schumacher, would you please yield? [LB72]

SENATOR SCHUMACHER: Yes, I will. [LB72]

SENATOR McDONNELL: Senator, I wasn't able to get the transcript of the testimony, so I'll try to rely on your memory. [LB72]

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SENATOR SCHUMACHER: I don't know if that's a good idea. (Laughter) [LB72]

SENATOR McDONNELL: City Attorney Paul Kratz, when he came to testify, what was his opposition to LB72? [LB72]

SENATOR SCHUMACHER: Gosh, Kratz, let me see, I got something noted on the back of this... [LB72]

SPEAKER SCHEER: One minute. [LB72]

SENATOR SCHUMACHER: ...bill copy. I'm not sure if I can read my writing. [LB72]

SENATOR McDONNELL: Can you read the writing, possibly, the note you made of Lynn Rex, her testimony? [LB72]

SENATOR SCHUMACHER: No, I don't have a note of...that's at least labeled "Lynn Rex." Something... [LB72]

SENATOR McDONNELL: Okay, thank you. Thank you, Senator. What's...okay, thank you, Senator. Possibly we could look at...there's a couple points here. At this point the market is not demanding that general obligation bonds or any other tax-supported bonds have superior priority; thus, there is simply no problem to fix. It is impossible to predict whether LB72 will have a negative or positive impact on bond ratings without asking the rating agencies. And there has been nothing published by the rating agencies either in favor or against legislation of this nature. [LB72]

SPEAKER SCHEER: Time, Senator. [LB72]

SENATOR McDONNELL: Thank you, Mr. President. [LB72]

SPEAKER SCHEER: Thank you, Senator McDonnell. Senator Pansing Brooks, you're recognized. [LB72]

SENATOR PANSING BROOKS: Thank you, Mr. President. I haven't spoken on this yet. I want to just say that I think LB72 is a solution in search of a problem. I think that it's designed to enhance access to capital markets for governmental units by assuring that the GO, the governmental obligation bonds and notes, etcetera, have a statutory lien on bonds pledged and

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revenue sources. So at this point I think that the market is not demanding a superpriority. So I don't really feel like there's a huge problem to fix. Also, we don't have any idea how...about whether or not this bill will affect bond ratings for the municipalities without either asking the rating agencies. And, you know, being a citizen of Lincoln, with the high bond rating that we have, I'm worried about putting that rating at risk. And that ends up costing a lot more dollars to our citizens by doing something like that. So I'm still questioning why the state should give bondholders more security without the market demanding that it do so. And it's also then to the detriment of other municipal creditors. Also, I am not sure why we want to solidify lien priorities without allowing the flexibility for the entities to agree otherwise. Municipalities are not...after this bill would occur, they're not allowed to contractually agree to something different even if all the parties agree. So, you know, if the goal is securing governmental obligation bonds, then let's address that. But this bill is really complicated. It would be much simpler to just address the governmental obligation bonds. And so I've heard that...I've talked to some various attorneys and everybody is saying to me that this is a very complicated bill. And so of course that makes interpretation and the ability for people to understand and for judges to be able to accurately decide how this is to work, it makes it overly complicated and more difficult. So I hope that Senator Schumacher would be willing to work on some of these issues. And with that, I will give the rest of my time to Senator McDonnell. [LB72]

SPEAKER SCHEER: Senator McDonnell, 1:45. [LB72]

SENATOR McDONNELL: Thank you, Senator, Mr. President. What I was mentioning earlier was the idea of the partnership currently going on with the stakeholders, with the people in the city of Omaha, with City Attorney Paul Kratz, with the unions, with the league all coming together to say, we're not in favor of LB72. Now are they in favor of working together, looking at ways to improve the pension system to make it healthier? Absolutely. Is there things that we're doing here right now? Are we trying to take away local control? [LB72]

SPEAKER SCHEER: One minute. [LB72]

SENATOR McDONNELL: Is that the whole goal? If we were all mayors of a city right now, would we want the state of Nebraska telling us that in this order, if there would be a problem and there would be bankruptcy, this is how you're going to solve it in this order: you're going to pay the bondholders first; you're going to take care of whoever you want second and third? Or would it be better to say, here, we're going to let you make that decision, like it currently works right now, or to say we're going to guarantee that the people that have dedicated their lives to that city and the citizens come first before the bondholders? But right now what we're trying to do is we're trying to take away local control, that local authority for them to make that decision, and that's not our job. Our job isn't to tell them. Our job is to let them make that decision, work their

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problems out, basically give them a possible avenue. But at this time with Senator Schumacher and the idea of letting people know this is the order of who's going to come first, who's going to come second, we're not letting that mayor,... [LB72]

SPEAKER SCHEER: Time, Senator. [LB72]

SENATOR McDONNELL: ...that city council make the decision. [LB72]

SPEAKER SCHEER: Time, Senator. [LB72]

SENATOR McDONNELL: Thank you, Mr. President. [LB72]

SPEAKER SCHEER: Thank you, Senator McDonnell, Senator Pansing Brooks. Senator Kolterman, you're recognized. [LB72]

SENATOR KOLTERMAN: Thank you, Mr. President. Thought I'd visit a little bit about a couple of issues that have been raised about the state's retirement plans. And this is pretty much, it's all spelled out in statute but let's talk about the state retirement plan first. In Statute 84-1324: "Retirement benefits; exemption from legal process," and these are the exceptions. "All annuities or benefits which any person shall be entitled to receive under the State Employees Retirement Act shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable except to the extent that such annuities or benefits are subject to a qualified domestic relations order under the Spousal Pension Rights Act." And as you read through each plan--the county plan, the state plan, the judges' plan, the State Patrol plan, and the school plan--that's all common language. So in statute those pension plans are protected, so let's just take those off the table. We don't need to talk about those any longer. But let's talk about the ones that are in trouble. And I want to make something very clear to Senator McDonnell and the people that are fighting to protect us on a daily basis. When we talk about retirement plans, those are negotiated plans in most instances, so you have city councils and mayors negotiating, and their legal counsels negotiating, in most...when we're talking about these types of plans, we're talking about collective bargaining situations. Let's use the city of Omaha as an example because theirs happens to be the most upside down: 51 percent funded. They're still using an assumed rate of 8 percent. Now our state plans we've moved...all moved to 7.5 percent. City of Lincoln moved theirs to 7.5 percent this year. To assume an 8 percent return, if they do lower that, it's going to cause what's known as an ARC: an actuarially required contribution. We'll find that out this summer. And that's one reason we're holding LB30 is simply because we need to know what that is, because I have a feeling it's not going to be as good. The other thing that plays into this is mortality. But in our state plans, when we come to you with changes, we're usually setting up another tier, so we're setting that up

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for future employees. We're not affecting people in the plans. And why do we do that? We do that to protect the people that are in the plans. The reason that we've made changes, and they're not as generous for those that are starting today, is because we cannot afford these plans. If you go to the private sector and ask somebody that's in a 401(k) how much contribution they put in, at best you're going to find 6 percent match, maybe 50 percent or 100 percent by an employer. That's 12 percent of a person's pay going into a pension plan. The city of Omaha under the police and fire protection right now, the city is putting in over 33 percent of the payroll salaries of the employees and it's being matched by 16-plus percent of the employees. It's maybe even just a little higher than that in their negotiated agreement. [LB72 LB30]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: One minute. [LB72]

SENATOR KOLTERMAN: So we're right at 50 percent of a person's salary is going in to keep these pension plans afloat. Now, if it's only 51 percent funded to begin with, and now all of a sudden we've got to increase that or...this is what I do not like about what they're doing in Omaha, they're taking benefits away from the employees. That could be fixed really easily by making new employees a little less expensive, putting them in a cash balance plan, and giving them benefit that's going to be sustainable. And then, by doing that we can guarantee that Senator McDonnell continues to get his pension, and every other employee that's still in the plan currently, hopefully, that will change the situation. But we're headed for disaster if we don't make these changes. And it's ultimately important that if we're going to sell bonds and the city of Omaha is going to sell bonds, they're going to have to have a good bond rating. They're already dropped a bond rating. [LB72]

PRESIDENT FOLEY: Time, Senator. [LB72]

SENATOR KOLTERMAN: They're AA now. [LB72]

PRESIDENT FOLEY: That's time. [LB72]

SENATOR KOLTERMAN: Thank you. [LB72]

PRESIDENT FOLEY: Thank you, Senator Kolterman. (Visitors introduced.) Senator Kolowski. [LB72]



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SENATOR KOLOWSKI: Thank you, Mr. President. I want to thank everyone who has contributed to a very good discussion today on this bill. I have my feelings about it, LB72, and the concerns that have been shared on the floor by Senator McDonnell and many others are, I think, a great deal of concern for me as well. I'm just trying to find out which way you might go on this and how much time we're going to be spending on it in the next day. I want to thank those, again, who have contributed, and I'd like to give the rest of my time at this time to Senator McDonnell. Is he here? Stepped out? Please... [LB72]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator McDonnell, 4:00. [LB72]

SENATOR McDONNELL: Thank you, Senators. Thank you, Mr. President. As Senator Kolowski was mentioning about the health of the pension bill or the pension system in the city of Omaha, again, we're all concerned about it, and those discussions are going to continue. But here we are. As concerned as we are about the health of the system because of the people it's going to affect, in LB72 we're telling those people, even if they get together, they work something out, they make all their decisions for the health and long term of the system, we're telling them in LB72 if the city makes bad decisions, the leadership of that city, no fault of theirs, nothing to do with them, they had nothing to do with it--they were retired, they were not at the table, not part of the decision making--but there was mistakes made and now there's a city in bankruptcy. At that point we're telling them thank you for making sure you had a healthy system to depend on for the remainder of your life, but at this point for possibly a bond, a 30-year bond that is 28 years into that, that that individual--again, 44 percent is based on individual bondholders have made that money off that bond--at that point we're telling those people, thank you, your system was healthy, but you're not going to get it, you're going to have stand in line. For the next two years we're going to make sure we take care of that bondholder, but that individual that doesn't have Social Security, you're out; you're out for at least two years. That's what we're telling them. So on one hand, we're looking at ways to improve pensions, make them healthier because we're concerned about those people that are relying on it, which we should be. On the other hand, if we pass LB72, we're telling them get in line, get in line and you figure out a way to feed yourself, because the bondholders come first. We're also saying, hey, city, citizens, city services, get in line--your roads, your parks, your public safety, your garbage removal--get in line because the bondholders come first. So it's not the citizens; it's not the people that serve the citizens. It will be the bondholders. There's just something basically wrong with that. And I'm not saying the bondholders should not be paid. They should be paid. That's an agreement. But in what order should they be paid? That's what we're talking about today. We're talking about the bondholders will come behind city services, will come behind those people that dedicated and contributed to that system that Senator Kolterman said that we want to make healthy. And I agree 100 percent with him that we want to make those systems healthy. But the time if they do go through that work and make it healthy and there is a problem somewhere else in the city and there is a bankruptcy: Sorry, even though you made those sacrifices, you made changes, you contributed

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every paycheck to that system, we're telling you now none of that matters. It's the bondholders that come first; it's those individuals that made an investment in the city and possibly was 28... [LB72]

PRESIDENT FOLEY: One minute. [LB72]

SENATOR McDONNELL: ...28 years into it, in a 30-year bond, but you're more important and for those next two years you come first, we pay you before the citizens get the services, the city services, and before those people that actually dedicated their whole life to serve those citizens get a paycheck from a pension that they were relying on, that they had an agreement on, that they were dependent upon. And now we tell them too bad, bondholders come first. Thank you, Mr. President. [LB72]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Senator Morfeld. [LB72]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I want to interrupt our regularly scheduled broadcast here to announce that Kansas, our neighbor to the south here, has sent Medicaid expansion to their governor with almost a supermajority of votes. Colleagues, last week the attempt to repeal the Affordable Care Act, as many of you know, failed. It failed not only there; it also failed in the Supreme Court to fully repeal it the last two times; and it's failed several other attempts to weaken it. And each time that we introduce this bill, the last four or five years, we come up with another excuse: Oh, who knows what the Supreme Court will do? Oh, we'll have a new administration in six years or four years or two years or in another year. Colleagues, it's time that we act to ensure that Nebraskans have affordable healthcare. Speaker Ryan, after the defeat of the attempt of repeal, got up on the mike and said the Affordable Care Act is the law of the land and will remain that way. The Affordable Care Act is the law of the land. That comes from the Republican Speaker of the House. For all of those people in here that are working in the Revenue Committee, in particular, to provide tax relief--I think Senator Smith is in here, he's looking up at the ceiling right now--but for all the people in here looking to provide tax relief, it's a little challenging right now. And the thing that keeps coming up in the news articles is, well, we need to provide tax relief; oh, wait, we have a billion-dollar budget shortfall. Huh! Well, I've got a \$1.7 billion dollar, billion with a "B"--I almost said a million myself--\$1.7 billion dollar economic development package sitting in the Health and Human Services Committee. It's called Medicaid expansion. And just as we invest in our roads, just as we invest in making sure that farmers are protected and can be successful, we should invest in our people. And I've heard far too many times on this floor right in front of me here, when that bill fails, the last two sessions that I've been around, oh, we'll find a way, we'll figure out another plan, we'll do an alternative, sorry I voted against that. I'm still waiting. I was the only person to introduce a Medicaid expansion bill this year. Colleagues, it's time to take action. It's time to

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provide our neighbors, our friends, and our family with affordable healthcare who cannot afford it. One-point-seven billion dollars over the next four years, a 90 percent match, a statement from the Republican Speaker of the United States Congress that it is the law of the land--the excuses are tired, they're old, and they have no alternatives that have been presented to this body. It's time that we act, because our silence and inaction is deadly to Nebraskans. Thank you, Mr. President. [LB72]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Harr. [LB72]

SENATOR HARR: Thank you. Thank you, Mr. President. I sometimes get confused because there's only one Senator Harr now so (laughter). Yeah (laugh). So I wanted to leave off, or continue where I left off, excuse me, and on bonds, when you issue a bond, a prospectus goes out and that is written by attorneys basically for attorneys. No one reads them but attorneys and the rating agencies. And what it says in there, it gives the terms of the bond. And bonds are generally in their initial offering are bought in large amounts by investment companies. Now eventually they'll sell them down to where we get to Senator Stinner buys them and other individuals, widows, orphans, and elderly, because they're good, safe, reliable bets. I'm not sure which one Senator Stinner is, but one of them. It's a good thing. But if the investment houses were so concerned about the issue in LB72, or if they thought it made an iota of change in the rating, they'd require it. I'm not sure this legislation is necessary. This is one of those situations where the possibility of it is so remote that it's negligible, that it doesn't have a monetary effect. Again, if it did, give me the proof. Give me the data that shows that and I'll vote for this. But I don't see it having an effect. This doesn't save the taxpayers one penny. No, this money will go to the bondholders who are already being reimbursed for taking a risk. And who pays the cost? It's the worker. It's the guy on the front line that takes the bullet, who runs into the burning building, who doesn't have a choice; 17 percent of his wages are going into a pension program. He or she doesn't get a rate of return on that, an interest on it. They get a defined benefit. They don't have any other choices. An investor does. If they don't like this risk, let's let the market decide. If enough people quit buying that don't have this clause, these types of bonds that have this type of clause, then we'll start seeing a difference and then the market will say, hey, you need to pass this law, or, hey, this is in the bill, so everyone is clear who has priority and who has seniority or, if you don't, you're paying a premium. The fact of the matter is that doesn't exist. So I heard earlier someone say this is a solution in search of a problem. I think that's probably a pretty accurate description. May this affect someone someday? Yes. Do we know what the bankrupt...maybe the bankruptcy court does what Senator Schumacher wants, maybe they don't. But I'm not sure in this session where we have used so much time on other issues that this issue warrants... [LB72]

PRESIDENT FOLEY: One minute. [LB72]

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SENATOR HARR: ...six hours of debate. I appreciate Senator Schumacher for bringing it. I appreciate the Banking, Commerce and Insurance for prioritizing it so we can have this discussion, so that hopefully we can put this issue to bed once and for all so that this does not become one of those perennial bills that we are all too familiar with. Thank you, Mr. President. [LB72]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Vargas. [LB72]

SENATOR VARGAS: Thank you very much, Lieutenant Governor. Colleagues, I continue to rise in support of AM787 and against LB72. I think this conversation has been great for...especially for those that have been on the...been sitting here listening to it. I want to continue to just specify why I am not in support of LB72. And I appreciate the conversation here and why this is an issue. I am continuing to try to reason and find why this is necessary given the data that we're seeing. I see the rationale at the federal level and I can understand that reasoning. But I'm not seeing, to Senator Harr's reasoning, I'm not seeing proof that this is something that's necessary. The only proof points I do see is, I know we talked about Detroit, that they had bankruptcy. I know there's an example in Stockton, that there was a bankruptcy recovery plan. And actually, in that instance, the pension holders, those were the people that were actually prioritized over the bondholders. And so that's a situation where I think it provides some contrast to this. But I want to make sure that this is...when we're talking about an issue about who gets what, there is a due process system. Within the current law, within bankruptcy law, there is the ability for the due process to exist for cities, for different stakeholders. But by doing this, we are removing that ability and that due process and I think that the unique circumstances of every single situation, every single bankruptcy issue is being stripped and taken away and specifically for those that don't have the means to always fight for it. And that's for the individuals that have put into pensions, that are working their tails off to make sure that they have more for themselves and are investing decades for something that they're waiting for and a return on investment and may not get it because of something in statute that unduly puts them below another entity. I think it's something that we should not push forward. It's been a great conversation. I don't think we're hearing enough of the rationale that it's warranted. I think we're hearing a rationale that there's a case that we may go down this route and that it's a safe, sort of a safe haven for the bondholders. But I'm not seeing the rationale that we need to have it where it seems like we're searching for the problem rather than thinking about what are some other creative ways to support local municipalities to do the due process and do it in a fair way that is not undercutting working families that obviously are contributing to their pensions. I want to make sure they're not the ones that are being put at the bottom. As somebody that just won an election, I campaigned on making sure that we are doing a little bit of both economic development but not on the backs of individuals that are working their tails off, specifically individuals that have put money into the pension plans. And so with that, I'll yield the remainder of my time if Senator Hansen would have it. [LB72]

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PRESIDENT FOLEY: Thank you, Senator Vargas; 2:00, Senator Hansen. [LB72]

SENATOR HANSEN: Thank you, Mr. President. I'm not sure if I'll take up all the time. And thank you, Senator Vargas, for yielding me time. I think some of the points that Senator Vargas and Senator Harr before him have really hit home. We've had a few people get up and claim that this is going to solve some sort of bond rate issue. And frankly, there's nobody from the bond industry, there's no publication, there's no research, there's no nothing that has given me any indication to that. I shared my own experience and some interpretation from bond counsel of the city of Lincoln that in Lincoln's case, they're worried that this will hurt their bond ratings and hurt the interest rates they get. While it might be an issue someday, somewhere down the line, and so I definitely think it's worthy of debate and discussion but I think again just hearken back to the point of a hard sell, a line in the sand, bondholders come first... [LB72]

PRESIDENT FOLEY: One minute. [LB72]

SENATOR HANSEN: Thank you, Mr. President. Bondholders come first and there's no judicial discretion, there's no opportunity for any other contracting or discussion, is not a good public policy choice for the state of Nebraska and that's what my AM787 is attempting to fix. Thank you, Mr. President. [LB72]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Williams. [LB72]

SENATOR WILLIAMS: Thank you, Mr. President. Good afternoon again. I guess I was looking for that solution that's chasing around a problem out there. Sorry I was not standing right here. One of the things I wanted to remind people, because we keep talking about the bondholders and the bondholders now have gotten to be the evil party in this whole thing, why do we even care about bondholders? Don't forget, there wouldn't be any need for these bondholders if the city wasn't asking these bondholders to finance the improvements and the other things that the city themselves wants to do. So it still comes back to a community. Whether that community is Omaha or Gothenburg or Pilger, which was nearly wiped off the map with a tornado that caused them great fiscal pain, it's still the community that makes these management decisions. I'm also reminded, and Senator Schumacher talked about this to some degree in his opening back at just past 1:30, about other solutions that have been tried, recognizing that this issue sits out there and exists. And remember, whether there was a solution in search of a problem or not, one of the first solutions that was offered, and I was sitting in the Banking Committee when this was offered, is, okay, in lieu of creating this municipal bond priority, let's put big print on the prospectus that clearly shows the potential buyer what the risk is of the underlying bond obligation. And immediately there was opposition to that by the communities that are here today opposing LB72. So that couldn't be used as a solution, even though Senator Harr mentioned a little bit ago the

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reading of the prospectus and the risk and all of that. Second thing that was offered as a solution: Well, let's just pass legislation that exempts cities of that class--Omaha, Lincoln--from being able to use bankruptcy as a tool to eliminate their debt; that would solve this particular problem that's looking for this solution. That potential solution was again rejected by these same communities that are here today looking at this solution that we have, LB72. There was another solution that was offered, very similar to the solution that Senator McDonnell asked Senator Schumacher about earlier, and that's saying, okay, if you don't want to give the bondholders the priority, let's turn it around and give the pension plans the priority. And oh, no, those same cities screamed bloody murder with that as a potential solution. There was one other solution that I remember that was talked about--in fact, a year ago we thought we had negotiated a potential agreement on this--and that was just simply exempting Lincoln and Omaha from this type of legislation. So it applied... [LB72]

PRESIDENT FOLEY: One minute. [LB72]

SENATOR WILLIAMS: ...everywhere else except for them. And again, that was...did not reach a fruitful end. We talk about how remote, again, the potential problem is. Well, if that's your argument, if it's that remote, you should be standing up signing on the dotted line on LB72 because it creates that clarity, continues to create the opportunity for capital that can be arranged, and continues to create the certainty for the best interest rates a community can get and potentially, as the pension plans become in better order, raising that bond rating. I stand in opposition to the amendment and certainly again support LB72. Thank you, Mr. President. [LB72]

PRESIDENT FOLEY: Thank you, Senator Williams. Senator Kolowski. [LB72]

SENATOR KOLOWSKI: Thank you, Mr. Speaker. Also, I'd like to continue with the thanks to all those who are contributing to this discussion this afternoon. And I'll turn to Senator Crawford...or give her the reminder of my time at this time. Thank you. [LB72]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Crawford, 4:40. [LB72]

SENATOR CRAWFORD: Thank you, Senator Kolowski, and thank you, Lieutenant Governor. I'd like to turn to a few questions about other content in the bill. I think we've talked a lot about the general principle of the bill and is it a good idea to, as a state, create this statutory lien that puts bondholders above all other commitments of a subdivision. But there's many parts to this bill and I am concerned that we look at all of the parts of the bill as we're considering LB72. And I have questions and concerns about multiple parts and asked...told Senator Schumacher I would be asking him some questions so we could get that clear and on the record what some of these

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other components of the bill are. And so I'd like to ask Senator Schumacher a few questions, please. [LB72]

PRESIDENT FOLEY: Senator Schumacher, would you yield, please? [LB72]

SENATOR SCHUMACHER: Yes, I will. [LB72]

SENATOR CRAWFORD: Thank you, Senator Schumacher. So we, when we were last talking about questions, we were on page 7 and I have questions about (f) and (g) on page 7. So first, I don't know if we ever really got a chance to answer the question about what (f) obligates subdivisions to do in terms of their property taxes. It's about equally and ratably securing their property taxes levied. What do you think (f) tells political subdivisions they must do in terms of their property taxes? [LB72]

SENATOR SCHUMACHER: What that basically says is their property tax capacity will be applied toward a class of bonds equally and ratably and basically you wouldn't be able to say, okay, the bonds issued, the first 100 bonds of the series, they get special treatment regarding the second 100 bonds of the series, that you apply it toward the money of equal classified bonds. [LB72]

SENATOR CRAWFORD: And what the...in (g) it talks about general obligation bonds, and we've talked quite a bit about general obligation bonds on the floor today, about those being bonds that have full faith and credit and the special role they have, but (g) then talks about limited tax bonds. What are limited tax bonds? [LB72]

SENATOR SCHUMACHER: The statute defines "limited tax bonds" as "any bond whose source for payment includes an ad valorem tax which is limited by the (sic: an) authorizing statute or its related authorizing measure." [LB72]

SENATOR CRAWFORD: So would that be if there was an ordinance passed to authorize this tax that said this is for a specific purpose? Is that what that means, limited tax...a limited tax bond is secured by some limited tax or assigned tax as opposed to the general taxes? [LB72]

SENATOR SCHUMACHER: It has its terms limiting...limited in the authorizing law or related measure by the city or issuing agency. [LB72]

SENATOR CRAWFORD: What does that mean? [LB72]

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SENATOR SCHUMACHER: Well, let's go back up into the definitions. [LB72]

PRESIDENT FOLEY: One minute. [LB72]

SENATOR SCHUMACHER: The source of payment for the bond, what you can look to in order to get payment for your bond, is specified in your authorizing statute or the authorizing ordinance or whatever measure they use in order to order the bonds to be placed. And that has got to include as part of that source of payment a property tax component. [LB72]

SENATOR CRAWFORD: Okay. Now both (f) and (g) talk about the importance of these bonds being equally and ratably secured. Who determines if they are secure enough, or what does that mean in terms of enforcement? [LB72]

SENATOR SCHUMACHER: I would guess if one of the bondholders or a class of bondholders were not getting fair treatment under that standard, then in the context of the bankrupt... [LB72]

PRESIDENT FOLEY: Time, Senators. Thank you, Senators Crawford and Schumacher. Senator Bolz, you're recognized. [LB72]

SENATOR BOLZ: Thank you, Mr. President. I've been downstairs working through some budget documents so forgive me if I'm a little bit late to the party this afternoon. But I do have a question or two for Senator Schumacher about some of the technical aspects of this bill if he would yield. [LB72]

PRESIDENT FOLEY: Senator Schumacher, would you yield, please? [LB72]

SENATOR SCHUMACHER: Yes, I will. [LB72]

SENATOR BOLZ: So I've been talking to some of the folks who have been engaged on this issue and one of their concerns is that LB72 would, in effect, encourage municipalities to add a tax repayment source to combination revenue tax financings to ensure priority status as to both sources of repayment; in other words, they would make that choice in a situation when they otherwise wouldn't have. Would you agree or disagree with that assessment? [LB72]

SENATOR SCHUMACHER: Gosh. You know, I've never been on the issuing end and in on those decisions. I would guess that the local council or the local financial officer for the city



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would probably consider all the factors available. I don't know what their conclusion would be. [LB72]

SENATOR BOLZ: Okay, so it would probably be contingent upon the set of circumstances and which government unit you're talking about and what the projects are. I mean I can appreciate that it would be contingent upon the facts. Does this in some way make it more likely that the responsibility for the payback would fall to taxpayers if there was the case of a bankruptcy? [LB72]

SENATOR SCHUMACHER: The responsibility for paying for the bonds on a general obligation bond is placed on the taxpayers right from the get-go and that's why general obligation bonds are general obligation bonds. [LB72]

SENATOR BOLZ: Okay. So this bill wouldn't necessarily make it more likely that a taxpayer would have to help pay back? [LB72]

SENATOR SCHUMACHER: No, they're on the hook right from the very beginning and that's the danger of betting on bonds because you are pledging a future financed by the taxpayers to that particular bond and you're doing it and enticing the capital to come in by a promise of full faith and credit. And in the financial world and the legal world and the constitutional world, those words are the most powerful words that you can say: full faith and credit. [LB72]

SENATOR BOLZ: Okay. Another question I have kind of in the realm of technicalities is trying to think through how this bill is different than previous bills that you've brought on this subject. Am I understanding correctly that this bill is a little bit broader than previous bills in the sense that it includes more types of government entities? [LB72]

SENATOR SCHUMACHER: This bill I think is pretty much a ditto of last year's bill. That bill might have been slightly different than the prior bill but I honestly don't remember the differences between the first and the second. I know, as Senator Williams pointed out, there were various efforts along the way to reach some kind of an accommodation and put this whole issue behind us, including of which was removal of bankruptcy authority and another one was full and fair disclosure in big letters so that there was no way a bondholder could make an argument that they didn't know that they might be fighting for their bond value in federal court. And both of those were summarily rejected. [LB72]

SENATOR BOLZ: Okay. That's helpful. And I guess one of the reasons that I'm asking that question is, in looking at the bill this year, the reference to schools and school districts sort of

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caught my eye and whether that's new or old I guess is less important than what you see as the potential impact on school districts should this bill move forward. [LB72]

SENATOR SCHUMACHER: I don't see it... [LB72]

PRESIDENT FOLEY: One minute. [LB72]

SENATOR SCHUMACHER: ...having any impact. But to the extent it's applicable to the school districts, it probably would improve their rating because if they do have an exposure to bankruptcy court, then...and I'm not sure if they do have that exposure to bankruptcy court, but if they do it would give the bondholder some certainty and with certainty comes lower interest rates. [LB72]

SENATOR BOLZ: Okay. Well, I'll keep thinking through and listening to the debate on this bill and go back through my files from last year's history on this type of legislation; still thoughtful and thinking through what the potential impacts on the stakeholders that everyone else has talked about today ranging from different governmental units to school boards and school districts to the taxpayers themselves. So thank you for your courtesy, Senator Schumacher, and thank you, Mr. President. [LB72]

PRESIDENT FOLEY: Thank you, Senator Bolz and Senator Schumacher. Senator Hansen, you're recognized to close on AM787. [LB72]

SENATOR HANSEN: Thank you, Mr. President. And thank you to all of my colleagues for the good debate and discussion here on LB72. I think all the discussion and perspective we've had on this bill has been really important. Obviously this is a pretty complex issue with lots of, as we established, lots of moving parts, different stakeholders, different perspectives. My intent with LB...sorry, with AM787 to LB72 was to illustrate kind of the options that we have under current law of what's going to go forward if we go to a bankruptcy judge. The bankruptcy judge will have the authority to determine what is appropriate, including if general obligation bonds do have the standing in Nebraska case law and very tight language pledging full faith and credit, they could very well come out...bondholders could very well come out ahead. There's a couple things that I just kind of wanted to address. I'd be curious to...I've heard the 28 states have done something like this statute. That's something that in the future I would like to maybe help, ask some senators and get to a source on. I'm not even necessarily sure 28 states allow for municipal bankruptcies, let alone have some sort of bondholder protections for them. That was some research I was going to do. It's certainly common in some states to not allow political subdivisions to go bankrupt or, if they do allow some political subdivisions to go bankrupt, it's more on the equivalent of our sanitary improvement district level. So that's one area I wanted to

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get some clarity on. Fundamentally I am comfortable with the current state of law. I know there's been some accusations that it's unclear and my attempt to clarify current law in LB787...AM, sorry, excuse me, AM787 was itself ruled as unclear, was considered unclear. I think we have an option here where a bankruptcy judge looking at our state law, case law can make that decision and can have a good option to decide what is going on. With that, Mr. President, I'd be willing to withdraw my AM787. Thank you. [LB72]

PRESIDENT FOLEY: Without objection, AM787 is withdrawn. Returning now to LB72, Mr. Clerk. [LB72]

ASSISTANT CLERK: Mr. President, Senator Crawford would move to amend with AM804. (Legislative Journal page 847.) [LB72]

PRESIDENT FOLEY: Senator Crawford, you're recognized to open on AM804. [LB72]

SENATOR CRAWFORD: Thank you, Lieutenant Governor. And good afternoon, colleagues. And again, I appreciate the good debate we've been having on LB72 and talking about the issues about our financial stability and thinking about all of the different stakeholders who are engaged in ensuring the financial security and fiscal responsibility of all of our political subdivisions that are discussed in this bill. AM804 is a bill (sic-amendment) that would "Strike the original sections and insert the following new sections." Section 1 would be amended to read that, "(1) The priority of any security interest created by a governmental unit shall be governed by the contractual terms set forth in the measure or measures, including the terms of any indenture or any other agreement approved by the measure or measures, adopted by the governmental unit. No security interest having priority over an existing security interest may be created in violation of the terms of an existing measure governing outstanding bonds." The new language in the amendment that would add to the statute would be, "Notwithstanding any other provision of law, beginning on the effective date of this act, in all other cases involving security interests, governmental unit services, pensions, and retirement accounts shall have first priority and general obligation bonds shall have second priority." So, colleagues, we've had conversations about whether certainty or uncertainty is the best to have in this situation. What encourages more appropriate and better financial decisions? Knowing that there's risk, does that encourage more financially conservative decisions on the part of those purchasing bonds and those making decisions about pensions and those making decisions about debt? Or is certainty more valuable? That's one of the dimensions of our debate. But, however, a second important dimension of the debate is if we decide that certainty is important, if we think that the markets will operate better in a condition of certainty, then, colleagues, we still have the choice of what that certainty will do in terms of how it treats some of our different stakeholders who are important in terms of the operating of our communities and our political subdivisions. So AM804 says if we're going to

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have certainty, then we should put the government services and pensions and retirement accounts first and put the bondholders second because, remember, colleagues, the bondholders have accepted that risk in purchasing a bond. The bondholders are earning interest. It may be low interest but they're earning interest. The bondholders are receiving preferable tax treatment also for their investment in these bonds. So if we want certainty, then we could have certainty but we could instead say that it's important that those who have given their lives in service of our political subdivisions and serve our community deserve to have their obligations paid and the taxpayer who is supporting this political subdivision has the right to ensure that their essential services are met and then we will make sure that the bondholders are paid. And again, we expect in most cases this is a rare, rare instance and...but if we think that we really need to have certainty, then it still leaves the question of what the certainty should do in terms of the ratings...excuse me, in terms of the rankings of the different people who have contractual and taxpayer relationships with the political subdivision. AM804 puts the taxpayers and those who have been working for the city or the school district or the utility or the natural resource district or the independent state agency, it puts those workers and the taxpayer's need for essential services from those political subdivisions ahead of the bondholders who have accepted this risk by purchasing the bond and who are receiving interest on that bond and tax benefits on that bond. So if you want certainty, AM804 is another direction to go. Again, personally, I think that the current situation is better than AM804. I think having the situation of less certainty creates a situation where people know that there is risk, the bond ratings help evaluate that risk. And we know going into a situation, we probably expect the bondholders will be high in priority. And as Senator Schumacher noted, the Hollstein case suggests in an SID bankruptcy they were first and there is a case law on that. And so the current case law in the state suggests that our bondholders are not...will be treated favorably. But leaving that in a situation where it is uncertain then creates that situation where there's an opportunity for agreements to be made if necessary and, again, make sure that there aren't any perverse incentives by creating a certainty in terms of ensuring that the bondholders are paid first. And so I think even if we have the certainty in AM804, while I...if we're going to have certainty, I would rather have certainty in this preference order. I still have concerns about what the unintended consequences of creating a certainty would be. So I offer AM804 as...because if we're going to have certainty, I think it's a more principled, appropriate certainty to have but I would prefer that we just...that we would not vote for LB72 and we would leave our situation and leave our bond situations and our political subdivisions in their current state. So that is the spirit in which AM804 is offered: to have a conversation about, if security is necessary, who should have priority if security is necessary. But I still think part of our conversation is, what does this security or certainty really gain us? And I have yet to hear evidence that there are lower bond ratings in our small, nonrated communities or other evidence of benefits that those states who have passed a bill like this have seen. I have yet to see that or yet to hear any cited evidence that those states that have passed a bill like this have seen any of those benefits of the certainty that a bill like this creates. And how much time do I have left, Mr. President? [LB72]

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PRESIDENT FOLEY: About two minutes. [LB72]

SENATOR CRAWFORD: Two minutes, thank you. So again, in addition to this ultimate question of which order that the stakeholders have in the case of a bankruptcy, there are other parts of the bill that I have concerns about. And as I was just talking to Senator Schumacher about that question, again, on page 7 we have language about the importance of making sure that the taxes secure these bonds, general obligation bonds and limited tax bonds. And this then comes back to this question of who decides. This is new language in our statute that says that these taxes are to be levied year by year by the governmental unit and that hence forward these...they must be equally and ratably secured by property taxes and our general obligation bonds and limited tax bonds must be equally and ratably secured. Who decides that, colleagues? Does this bill open a role for other entities to tell us what's an appropriate level of property tax? And on page 7, it's not just property tax but many of our other taxes that we're talking about that this bill speaks to and what a local subdivision would need to do in terms of securing their bonds. Do we understand what's in those sections? Do we think that's the direction we need to go in terms of understanding the security and the ongoing security of those bonds? Is there any concern that we have that those bonds are not already secure? What does this...I still am not sure, and we'll get a chance perhaps to talk on future turns, not really sure what those sections do and what rights they give to someone outside of our political subdivision to tell our political subdivisions what their tax rates need to be to show that these things are...that their bonds are equally and ratably secured. And so I think there are concerns in the bill above and beyond the concerns that we've discussed in the case of a bankruptcy which, again, a bankruptcy of a political subdivision is extremely rare. [LB72]

PRESIDENT FOLEY: Time, Senator. [LB72]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. [LB72]

PRESIDENT FOLEY: Thank you, Senator Crawford. Mr. Clerk, are there any items for the record? [LB72]

ASSISTANT CLERK: Mr. President, I do: a communication from the Governor (read re LB8, LB11, LB16, LB18, LB18A, LB19, LB29, LB57, LB85, LB94, LB99, LB113, LB133, LB140, LB184, LB185, LB186, and LB203.) New bill, LB356A, introduced by Senator Bolz. (Read LB356A by title for the first time.) New resolutions: LR86 by Senator Riepe and LR87 by Senator Albrecht, those will be laid over. Amendments to be printed to LB447A from Senator Chambers; Senator Groene to LB98; Senator Burke Harr to LB535; Senator Stinner, LB151; Senator Bolz to LB180; and Senator McDonnell to LB72. That's all I have at this time, Mr. President. (Legislative Journal pages 843-846.) [LB8 LB11 LB16 LB18 LB18A LB19 LB29

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PRESIDENT FOLEY: Thank you, Mr. Clerk. Continuing debate on LB72 and AM804. Senator McDonnell. [LB72]

SENATOR McDONNELL: Thank you, Mr. President. Thank you, Senator Crawford. I rise in support of AM804. We've been talking about fairness. We've been talking about making sure the bondholders know what could potentially happen in a case of a bankruptcy, making sure the pensioners, the people that served that city, and also the citizens. So now we know this is what would happen, the idea that the citizens would be taken care of, the services would not be reduced. Here you look at a city that possibly has just claimed bankruptcy. How are they going to improve? If we go ahead and say, okay, the bondholder gets paid first, city services are second and the pensioners are second, at that point, who is going to want to bring their business to that city? Who is going to actually want to move their family to that city? The idea of looking at it just economically, looking at what's best interest for that city, who made some mistakes, definitely, they've claimed bankruptcy; at that point, if we're sending the message that we take care of the people that helped take care of the city and we make sure the citizens of that city are going to get their services--their streets plowed, their streets fixed, those 911 calls answered--that's sending the right message. It's also being fair to that bondholder. That bondholder understands. Again, it's never happened in the state of Nebraska where a municipality has claimed bankruptcy, but--filed bankruptcy--but the point is that bondholder, if it's part of that 44 percent that's an individual, or a if it's a bank, they understand, hey, the citizens come first. And the bondholder should be supportive of that because they are going to be paid. No one is saying that the bondholder would not be paid. But who is paid first? It is those people that dedicated their lives that are in agreement with that city because of their service that they would have a pension, and the citizens, they come first. And that's going to help that city rebuild. That's going to help that city get out of that bankruptcy, get up and running, bring those new businesses in and those new families into that city. It's going to help and it's going to eventually help the bondholder also. So I appreciate Senator Crawford bringing the AM804 and I will yield the remainder of my time to Senator Crawford. [LB72]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Senator Crawford, 2:30. [LB72]

SENATOR CRAWFORD: Thank you, Senator McDonnell. I'd like to continue the conversation with Senator Schumacher about (f) and (g) on page 7 if he's willing to do so. [LB72]

PRESIDENT FOLEY: Senator Schumacher, would you yield, please? [LB72]

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SENATOR SCHUMACHER: Yes, I will. [LB72]

SENATOR CRAWFORD: Thank you, Senator Schumacher. So I want to just pick up our questioning that we were doing before. As I understand it, (f) and (g) are not just about bankruptcy; they are a more general statute in terms of obligations for political subdivisions, is that correct? [LB72]

SENATOR SCHUMACHER: I believe so. [LB72]

SENATOR CRAWFORD: I believe so, so... [LB72]

SENATOR SCHUMACHER: Yep. [LB72]

SENATOR CRAWFORD: And what we were talking about is it tells them the...how they must secure their general obligation bonds and their limited tax bonds and my question to you, and we ran out of time, was, who determines if they're appropriately secured? Who would be the one enforcing this? [LB72]

SENATOR SCHUMACHER: If there were a conflict between the priorities, between two different people who were beneficiaries of these bonds, a court would determine the priority between the two of them, but it is very clear that they are granted a first lien... [LB72]

SENATOR CRAWFORD: First lien. [LB72]

SENATOR SCHUMACHER: ...the entire class of bonds granted a first lien on the limited ad valorem tax or limited local option sales tax. For example, the local option sales tax is an additional tax that they can put on in addition to their sales tax that might be for a specific purpose and the... [LB72]

SENATOR CRAWFORD: So that's part...I'm going to come back to the other secured question in a minute. Also you're pointing to another part of page 7 that, again, says that these obligation bonds and limited tax bonds, obligation bonds or limited tax bonds, have a first lien, a first lien on all of these different levels of taxes that are then listed on that page. We are putting a lien on the political subdivision's taxes, a first lien on the political subdivision's taxes, correct? [LB72]

SENATOR SCHUMACHER: It is those taxes that are covered under the bond indenture, as I understand it, in the...the bond will say what... [LB72]

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PRESIDENT FOLEY: Time, Senators. [LB72]

SENATOR CRAWFORD: Thank you. [LB72]

PRESIDENT FOLEY: Thank you, Senator Crawford, Senator Schumacher. Senator Quick, you're recognized. [LB72]

SENATOR QUICK: Thank you, Mr. President. As a freshman senator, I'm new to a lot of this, but I'm beginning to get the impression that this bill has come back year after year. And I'm starting to think that maybe it's like a bad penny and none of us likes bad pennies. So I'm still against LB72. And the other thing I would say that after so many years of bringing it back and still the bankers are the only ones supporting that, that's got to send a message to us as legislators that maybe this just isn't the appropriate thing to do. One thing I notice in this bill. And I guess I would ask Senator Schumacher if he would yield to a question. [LB72]

PRESIDENT FOLEY: Senator Schumacher, would you yield, please? [LB72]

SENATOR SCHUMACHER: Yes, I will. [LB72]

SENATOR QUICK: Does...I noticed in here it says something about public utilities. Does this affect public utilities and maybe those pensioners as well? [LB72]

SENATOR SCHUMACHER: I do not think that it affects those pensioners. [LB72]

SENATOR QUICK: Okay. [LB72]

SENATOR SCHUMACHER: And I can get that confirmed, but it's my impression that they issue revenue bonds. [LB72]

SENATOR QUICK: Okay. All right. All right, thank you. And then another question I have is I'm guessing...why don't we...why don't you want to trust the judges to make this decision? [LB72]

SENATOR SCHUMACHER: Because a judge is obligated not to just rule by fiat or by gut but to apply the law. And we have an...the first question the judge will ask is, what is the law that I should apply? And then he starts looking through to books to what might apply. The Hollstein case, for example, that Senator Crawford raised which suggests that bondholders have first



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priority anyway but it's not clear. So the judge may say, well, gee, that's the only authority from Nebraska that I can find so I'm going to use it, or might say, you know, that was an SID and I don't quite feel that that glove fits, I'm going to look to a neighboring state to see how they do it, because that's as close as I can come. And all of a sudden this judge just doesn't write an Opinion--you know, I can't find any law that's specifically on point and I really am too lazy to look to a neighboring state and Hollstein doesn't quite fit, so I guess I'm going to flip a coin or just do what my gut tells me is right. That's not how judges operate. And so our obligation where we know this could be an issue, and thank goodness it's not an issue today as far as a crisis, this is when it's easy to make a decision, kind of like a prenuptial agreement. When you're fighting...you know, it's a lot harder to fight it out in a divorce than it is to ahead of time say, you know, we're deeply in love and here's the rules we're going to live by. Well, now is the time for us to make the decision and do our job to say, Dear Judge, if this ugly situation ever occurs, this is what the Legislature of this state chose to do in a cool and very professional public debate and discussion and how we would like you to handle it. And it's all fair to handle it this way because, you know, for the last 15, 20 years that this law has been in operation, everybody knew clearly what the rules of the game were. And the bondholders in that period of time adjusted their interest rates accordingly, the unions negotiated their contracts accordingly, and it is fair, Judge. And in all probability, if bad, bad things happen, the reason for doing it today is... [LB72]

PRESIDENT FOLEY: One minute. [LB72]

SENATOR SCHUMACHER: ...that 15, 20 years from now when that might happen, that will be a strong argument for fairness: Everybody knew this was the rule in writing, clear and up-front, for 15 or 20 years. The judge can feel good about it and so can everybody else. [LB72]

SENATOR QUICK: Thank you, Senator Schumacher. I guess from my standpoint I still feel like the judges...we should stay out of the judiciary part of the government and let them make those decisions. They've had this in place for awhile. We haven't had any bankruptcies. But I feel like it's not our place to make a law that could affect--adversely affect--working families. It could adversely affect maybe even the community. We don't know that for a fact yet so. But I'd still...I'd like to...I think you were going to look into that, but I'd like to find out for sure if this does or doesn't affect public utilities because I see it's listed in here under this law so. [LB72]

PRESIDENT FOLEY: Time, Senator. [LB72]

SENATOR QUICK: Thank you. [LB72]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Hansen. [LB72]

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SENATOR HANSEN: Thank you, Mr. President. Thank you, colleagues. I, too, appreciate Senator Quick's question about exactly what governmental entities are included in this bill. I was a little bit surprised when all of a sudden we were talking about it doesn't apply to public power districts and that's also clarification that I'd like to see moving forward. I'd like to thank Senator Crawford for her introducing AM804. I think when you ask your constituents, you know, in the event of the worst-case scenario, you know, a municipality, a government entity goes bankrupt, what would you want prioritized? What would you want prioritized? And they're going to say, well, the actual functions of the government and, you know, the people who work for them, sure, maybe with some exceptions, because obviously maybe with some exceptions, but that's, I think, when you get down to the heart of it, when you ask a citizen what do you want from your government in the event of a worst-case scenario. And I think I had a unique perspective. We've had a couple bills in front of Judiciary Committee this year. They...none of them moved forward, or got prioritized, rather, but a couple bills this year in Judiciary dealing with specifically Gage County, not by name but obviously an attempt. And we had on one of those bills a couple landowners and constituents who were coming in and talking about the need for what they were looking for as landowners and taxpayers facing down the barrel of some significant financial insolvency of a county. Now I understand this bill is unclear as to whether or not it applies to county and other political subdivisions, but that was one of those things that I in committee, it was a bit of a tangent, but asked a landowner, a rancher in Gage County, you know, if your county goes bankrupt, what do you want it to be focused on? And his answer wasn't bonds; it wasn't interest rates; it wasn't banks; it wasn't mutual funds. It was the people of Gage County. Interpret that as you will. Interpret that as you will but that's what I think a lot of people are dealing with. When you're talking about what do you at the end of the day, push comes to shove, worst-case scenario, who do you want your government entity to go to the bat for? And the people who live and work and are part of that community is likely going to be that answer. Now we could talk about what's the best in the state policy in order to promote financial solvency of various political subdivisions. We can promote all sorts of better funding of pension plans. We can do other things to incentivize investment in the state and do other things to incentivize key bond rates, good bond rates and interest rates and investments. I think, though, LB72, in confirming that bondholders have a statutory lien above and beyond all, all other contracts, all other negotiations, all other deals, whether or not that's in current case law or not, I think that's a step too far. I appreciate the discussion we've had on this issue and appreciate that we can look for other options and other solutions and we'll have more time to do that. But that's my continued hesitation with LB72 and why again I'm very appreciative of Senator Crawford bringing AM804 which, as I understand it, preserves government services and retirement accounts and pensions as that first level of priority. Thank you, Mr. President. [LB72]

PRESIDENT FOLEY: Thank you, Senator Hansen. Mr. Clerk. [LB72]

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ASSISTANT CLERK: Mr. President, a series of name adds: Senator Hansen, Blood, McCollister, Krist, and Albrecht all to LB91. (Legislative Journal page 847.) [LB91]

And a priority motion: Senator Blood would move to adjourn until Thursday, March 30, 2017, at 9:00 a.m.

PRESIDENT FOLEY: Members, you've heard the motion to adjourn. All those in favor say aye. Those opposed say nay. We are adjourned.